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## Human Rights Based Approach to Water and Sanitation

### Purpose and framework

The purpose of this brief is primarily to provide guidance to Sida country teams on how to apply a human rights based approach when preparing, assessing and monitoring initiatives in water and sanitation.

Applying a HRBA will contribute to increased social and environmental considerations in the sector and to improved accessibility for the whole population – and of extremely poor and disadvantaged groups in particular – to water and sanitation.

Most donors have developed methods and guidelines for practical application of HRBA. In Sweden the interpretation of a HRBA has been elaborated in the [Policy for Global Development \(PGD\)](#) and the government's [Aid Policy Framework](#) (section 3.2.2.). The aid policy framework also specifies six aims. One of them is “improved basic health” and in particular: a) improved access to sexual and reproductive health and rights and reduced vulnerability to HIV and AIDS b) improved survival and healthier lives, with a focus on women and children c) improved access to clean water and basic sanitation. This brief deals with the last area.

Applying a human rights based approach to water and sanitation entails

- Assessing how the initiative will further the realisation of human rights as laid down in the UN Human Rights Conventions and how it will ensure to do no harm.
- Planning and monitoring how the values and principles underpinning these UN Conventions (non-discrimination, participation, accountability and transparency) are applied in the programme design and processes.
- Developing capacities of those who have power and formal obligations to protect, respect and fulfil human rights obligations
- Empowering men, women, girls and boys (with hope, assertiveness, knowledge, skills, tools, communication channels, legal mechanisms etc.) to enable them to address their situation and claim their rights individually and collectively

### The right to health – water and sanitation

The most important human rights instruments for the water/sanitation sector are contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Access to “safe and clean drinking water and sanitation” was explicitly recognised as a human right by the UN General Assembly in July 2010 and by the Council for Human Rights in September 2010. It is part of the right to an adequate standard of living and the right to health (articles 11 and 12 of the ICESCR). The UN committee monitoring the ICESCR implementation has clarified in Comment 15, 2002 that the right to water means:

## Availability

A sufficient quantity of water for personal and domestic uses must be available. Although not legally established, many organisations estimate 20-50 litres per day/person as a minimum. Likewise, a sufficient number of sanitation facilities have to be available to all.



*Control of water purified in wastewater treatment plants in Bolivia. Sweden supports Bolivia's efforts to improve access to water and sanitation in peri-urban areas through the state program PASAP. Photo: Fundación Sumai Huasi. La Paz-Bolivia*

## Accessibility

Water and sanitation services must be accessible to everyone in the household or its vicinity on a continuous basis (maximum 1 km or 30 minutes round trip). Physical security must not be threatened when accessing facilities and must be within reach also for elderly and persons with disabilities. Accessibility of information on water and sanitation issues is also essential.

## Affordability

Access to sanitation and water must be affordable to all, also for disadvantaged persons and groups. Expenditure may not compromise the ability to pay for other essential necessities guaranteed by human rights such as food, housing and health care. A bench mark of 5% of income available to the household has been established for water and sanitation.

## Acceptability

Sanitation facilities, in particular, have to be culturally acceptable. This will often require gender-specific facilities, constructed in a way that ensures privacy and dignity.

## Quality

Water has to be safe for consumption and other uses, so that it poses no threat to human health (refer to WHO guidelines for drinking water quality). Sanitation facilities must be hygienic, technically and environmentally safe to use. To ensure hygiene, access to water for cleansing and hand washing after use is essential.

A state is obliged to undertake whatever is necessary and within its power to gradually realise the right to water and sanitation for all, especially for those who have insufficient/no access.

A special rapporteur has been appointed by the Office of the High Commissioner for Human Rights to monitor progress and share good practices. Publications on this web site can provide helpful and up-to date information on the right to water and sanitation:

<http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/SRWaterIndex.aspx>

## Applying a HRBA to water and sanitation programmes

The questions below may guide staff to further improve the preparation, assessment and monitoring of initiatives and ensure that human rights are enhanced, respected and protected both in programme design and processes. First there are questions related to human rights instruments (L) and to empowerment and capacity development (E), followed by specific questions related to the four human rights principles of non-discrimination (N), transparency (T), participation (P) and accountability (A). In relation to water and sanitation programmes the key elements of **availability, affordability, accessibility, acceptability and quality** are often used as an additional interlinked analytical tool.

### Linking to Human Rights commitments and core obligations (L)

The right to water does not mean that water is to be provided free of charge. However, individuals are entitled to water that is affordable. Water should be treated as a social and cultural good, a public good, and not primarily as an economic good. This point has been stressed by the UN Committee for Economic, Social and Cultural rights. Any payment for water services must be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable to all, including socially disadvantaged groups. Key issues to monitor and analyse in assessing support for health initiatives are:

- Have the HR obligations and key elements of availability, affordability, accessibility, acceptability and quality been used as a point of departure for dialogue, programming and funding decisions?
- Is the right to health recognised in the constitution, bill of rights or national legislation? If so, how can Sweden use these commitments to strengthen dialogue and programming?
- Is the program based on an analysis of the causes of the non-fulfilment of the rights to health, water and sanitation?
- Is there a national public health strategy/ national health plan based on these analyses and on internationally recognised standards for water and sanitation, which can guide donor contributions?

## Empowerment and capacity development (E)

While the UN treaties and General Comments provide guidance on WHAT has to be achieved, a human rights based approach relates to the process – HOW development programs are implemented. A human rights based approach specifically entails holding the duty bearers (the state) accountable to their commitments as agreed in international Human Right treaties and in their own legislation. It also means empowering the rights holders (individuals and care givers) to know their rights and enabling them to challenge the state and complain to a mandated body when rights are violated. Key issues to monitor and analyse are:

- Do politicians, authorities at national and district levels, and their contractors have awareness, knowledge, capacity and resources to respond to water and sanitation rights?
- Does the initiative consider direct support to CSOs who represent the affected population, to engage in monitoring of the commitments made by contractors, e.g. trade unions, farmers associations, pastoralist associations, women organisations, child rights groups, environment groups?
- Are the men women and children affected informed about their rights to water and sanitation? Are they able to engage with the system and to make use of complaints mechanisms?

## Non-discrimination (N)

Sida/donors could be more specific in terms of requesting a pro-poor focus and prioritisation of access to water and sanitation for the most marginalised groups. This means targeting areas and population groups with the least access to water and sanitation, which may not be the most profitable areas. Pro-poor tariff structures could be promoted along with subsidising of connection fees.

Non-discrimination also means insisting on disaggregated monitoring indicators and base line data. Most importantly, non-discrimination will require deliberate planning and affirmative actions. Lack of facilities for menstrual hygiene in schools and public places is a discrimination against girls and women. Approximately 25% of girls in India drop out of school (and do not return) once they reach puberty, due to lack of access to MHM facilities and imbedded taboos (according to WSSCC).

Too many latrines are still built in an inaccessible and unacceptable manner for women, elderly, children and persons with disabilities. Some good examples of accessible sanitation are Danish supported disability friendly latrines and WaterAid programs. Ecological sustainable sanitation programs have been developed by EcoSanRes. Key questions to monitor and analyse when assessing health initiatives are:

- Is there an explicit focus on regions or groups that have insufficient or no supply systems at all (informal settlements, rural regions)?
- Is there a pro-poor design of tariffs e.g. subsidies to connection fees and banded tariff structures that take into account ability to pay?

- Are there disaggregated data to monitor access to water and sanitation for various groups and regions (especially vulnerable and marginalised)?
- Are there indicators that monitor consequences for women and girls?

### Transparency (T)

Governments need to formulate and communicate its overall policy for the use of its natural resources and a plan and budget for meeting the rights to water and sanitation of its population. At what pace and with what means will the right to water be realised? How will the poor and marginalised people get access? What will the consequences be for the environment, for people affected (women, men, girls and boys, persons with disabilities, workers, pastoralists, farmers etc.) and for peace and security?

Local government officials and the population affected by natural resources projects are often uninformed and therefore cannot participate meaningfully in consultations. Sida/donors could suggest that information about the project and its benefits and risks should be public and accessible (i.e. using local languages, radio etc.).

The governmental policy guidelines and monitoring mechanisms should be clearly communicated and explained so that local authorities, farmers, pastoralists and other concerned citizens can make informed decisions on if/how to participate in and benefit from the investment programs. Who is gaining what? Who is losing what? Who is responsible for what? Radio and CSOs could be used as channels for dialogue.

Key questions to monitor and analyse when assessing health initiatives are:

- Is information on water/sanitation policies, plans and budgets communicated openly and in accessible formats/channels?
- Are contracts with investors made public in terms of their commitments towards the population (water and sanitation rights)?
- Are regional and bilateral agreements on joint water resources fair, known to the population and monitored for compliance?

### Participation (P)

Participation in planning, implementation and monitoring could be both formal and informal. Examples include;

- Inviting CSOs, particularly CBOs, to be part of formal decision making bodies such as steering committees, one stop centres, local consultative bodies etc.
- Consulting with local communities where ample time is given for people to understand the issues, reflect on the consequences and formulate their suggestions
- Seeking the opinion of groups that do not have a voice in terms of the established power structure and ensuring that they have access to information (CSOs could be helpful in organising discussions and hearings)
- Strengthening decentralisation and budget allocations to local government structures and CSOs to balance power of central government and their contractors/partners

Key questions to monitor and analyse when assessing health initiatives are:



- Are deliberate measures taken to make information and consultations accessible to various stakeholders?
- Are the views of women, children, elderly, persons with disabilities and minorities specifically probed and considered?
- Is there sufficient time for consultations?
- Do CSOs have capacity to monitor water and sanitation initiatives?



*A simple arrangement for washing hands in Toroma Sub-County in Uganda. Sweden has supported Uganda's water and sanitation sector for over ten years and strengthened Ugandan institutions that manage water resources. Photo: Helen Holm*

## Accountability (A)

Governments should provide a functional, transparent, non-discriminatory legal and policy framework for water and sanitation. This includes defining the entity responsible for realising water and sanitation rights, clear guidelines for contractors and a monitoring system for compliance. Without monitoring mechanisms, indicators of progress and penalties for non-compliance to commitments related to human rights, there is a risk that commitments may not be fulfilled. Sida/donors could support governments to

- Develop a policy framework with key indicators for human rights outcomes (e.g. improved health among poor, reduced work load for women, accessibility of latrines for children/elderly/persons with disabilities etc.)
- Gather base line data for these indicators, preferably in collaboration with local universities and other research institutions
- Develop capacity to make human rights sensitive tenders and contracts and ability to monitor commitments made by contractors
- Set up a functional monitoring mechanism to supervise performance in relation to agreed indicators and coherence to government policy framework, coupled with an appropriate penalty/reward system
- Establish a complaints mechanism for the public that has legal capacity to act, is well known and easily accessible

Sida/donors could also support independent regulatory frameworks, national human rights commissions, parliamentary committees, civil society watchdogs as well as regional or global peer reviews. Media involved in investigative journalism can also be important partners.

Key questions to monitor and analyse when assessing health initiatives are:

- Does the state “walk the talk”: does it deliver against plans and honour its obligation to respect, protect, and fulfil the right to water and sanitation?
- Is there a transparent legal and policy framework that defines accountability mechanisms?
- Do citizens and community groups have sufficient knowledge and capacity to effectively use formal accountability mechanisms?
- Has the state capacity to regulate and monitor human rights outcomes when contracting private service providers?
- Are there independent regulation, complaints mechanisms and civil society monitoring?

## Useful links and references

The UN web page where countries and treaties can be monitored <http://uhri.ohchr.org/en/>.

Information portal to the human rights to water and sanitation: <http://www.righttowater.info/>

Special Rapporteur handbook: Realising the Human Rights to Water and Sanitation:  
<http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/Handbook.aspx>

Danish supported disability friendly latrines  
[http://www.danidadevforum.um.dk/NR/rdonlyres/7299ADB1-D5CC-4DE5-A890-EB21BD5D1C33/0/WS\\_TB\\_CaseStoryDisabilityLatrines.pdf](http://www.danidadevforum.um.dk/NR/rdonlyres/7299ADB1-D5CC-4DE5-A890-EB21BD5D1C33/0/WS_TB_CaseStoryDisabilityLatrines.pdf)

WaterAid is an international non-governmental organisation with a mission is to transform lives by improving access to safe water, hygiene and sanitation in the world's poorest communities:  
[http://www.wateraid.org/documents/plugin\\_documents/all\\_people\\_one\\_goal\\_all\\_access.pdf](http://www.wateraid.org/documents/plugin_documents/all_people_one_goal_all_access.pdf)  
[http://www.wateraid.org/international/about\\_us/newsroom/10376.asp](http://www.wateraid.org/international/about_us/newsroom/10376.asp)

Ecological sustainable sanitation programs: <http://www.ecosanres.org/about.htm>

On the Right Track: Good practices in realising the rights to water and sanitation - OHCHR 2012, Catarina de Albuquerque, Special Rapporteur.  
[http://www.ohchr.org/Documents/Issues/Water/BookonGoodPractices\\_en.pdf](http://www.ohchr.org/Documents/Issues/Water/BookonGoodPractices_en.pdf)

Information portal to the human rights to water and sanitation: <http://www.righttowater.info/>

Water and sanitation for persons with disabilities:  
[http://wedc.lboro.ac.uk/research/project\\_details.html?p=12](http://wedc.lboro.ac.uk/research/project_details.html?p=12)

The 4th edition of the world water development report:  
Volume 1: Managing Water under Uncertainty and Risk  
[http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/SC/pdf/WWDR4\\_Volume\\_1-Managing\\_Water\\_under\\_Uncertainty\\_and\\_Risk.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/SC/pdf/WWDR4_Volume_1-Managing_Water_under_Uncertainty_and_Risk.pdf)  
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Read more in the German development Agency HRBA fact sheet documents  
[http://www.bmz.de/en/publications/topics/human\\_rights/BMZ\\_Information\\_Brochure\\_7\\_2010e.pdf](http://www.bmz.de/en/publications/topics/human_rights/BMZ_Information_Brochure_7_2010e.pdf)