

STUDY BRIEF – MARCH 2021

The Human Rights-Based Approach within the Water and Sanitation Sector

Added Value and Implementation Challenges for Development Cooperation



Study brief led by



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Executive Summary

There continue to be inequalities in access to water and sanitation despite the international legal obligations that have resulted from recognition of the human rights to water and sanitation (HRWS). Nearly a third of people globally still lack access to drinking water and 2 in 3 people have no safe sanitation facilities¹. Access to universal services is commonly included in the policies and programme strategies produced by governments and development stakeholders, but actually implementing HRWS principles and criteria in the field remains a challenge. This implementation requires a paradigm shift in both policies and interventions. Development programming and official development assistance remains too heavily geared towards a top-down service provision-based approach. However, the sustainable impact of this approach on human development has proven to be limited, not least because current investment in the sector falls a long way short of what is required and will need to increase fourfold if the Sustainable Development Goals are to be achieved by 2030.

Nearly
1/3
of people globally still lack
access to drinking water.



The human rights-based approach (HRBA) appears to be an effective way of tackling structural inequalities and realising the HRWS. This approach is widely used in development programming and now needs to be applied to the water and sanitation sector. The HRBA seeks to realise human rights by addressing the root causes of inequalities. It has undeniable added value as not only does it help build people's and communities' citizen engagement capacities over time, but it also builds governments' capacities to respect, safeguard and implement human rights and demonstrate accountability. The HRBA, which



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focuses on the people being left behind, provides a better understanding of the causes of inequalities that need to be addressed, and this helps ensure governments play a central role in facilitating empowerment and institutionalising engagement and accountability mechanisms. It introduces real accountability between rights-holders and duty-bearers.

Sector stakeholders are now starting to develop their knowledge of and implement the HRBA, adapting their programme practices and strategies and developing operational tools. There are many examples of good practices to be found, but these need to be built on and widely disseminated. The HRBA remains a conceptual framework that is open to interpretation, and its implementation beyond its strategic alignment can create challenges. These include not only institutional organisational and human resource challenges, but also financial challenges as existing financial mechanisms do not make it possible to work sufficiently over the long-term or on changes to policy and practices. Stakeholders also face programming challenges for identifying the most vulnerable, developing new field expertise (sometimes outside of the water and sanitation sector) and forging new strategic partnerships.

¹ JMP OMS/UNICEF 2019.

To address these challenges, Coalition Eau has established the following recommendations for development stakeholders (governments, UN agencies, donors and NGOs):

Respect HRWS obligations:

- ▶ **Development organisations** must honour their commitments under international law in order to realise the HRWS.
- ▶ **Development stakeholders** should mainstream the HRBA into their organisation's strategic positioning and into their water and sanitation policies and operational strategies.
- ▶ **Governments, UN agencies and donors** should support their partner countries with developing legal and regulatory frameworks that are compliant both with the HRBA and with HRWS principles and criteria, and further support the construction of democratic societies that enable citizen engagement.
- ▶ **Development and humanitarian aid policy and programmes**, and official development assistance funding for the water, sanitation and hygiene (WASH) sector, should target the least developed and developing countries and the most vulnerable and marginalised people.
- ▶ **Development stakeholders** need to strengthen the justiciability of the HRWS by supporting the mechanisms used to register complaints and record human rights violations, particularly those used by the UN HRWS rapporteurs and at the national level by institutions working to defend human rights.
- ▶ **Development stakeholders** are encouraged to develop new strategic partnerships to provide the most holistic response possible to HRWS principles and criteria.

Improve knowledge of the HRWS and HRBA:

- ▶ **Information on progressively implementing the HRWS** should be accessible and widely disseminated, particularly by the UN HRWS rapporteurs and in JMP reporting on the achievement of SDG 6.
- ▶ **The UN HRWS rapporteurs** should provide input for discussions on implementing the HRBA in the WASH sector.
- ▶ **Development stakeholders** should take the steps required to improve their knowledge of HRWS content and of the HRBA in the WASH sector, and build their capacities for implementing the approach, particularly through training, in order to progressively reshape their intervention strategies.
- ▶ **Donors** should support civil society capacity-building to foster implementation of the HRBA within the WASH sector.
- ▶ **Development stakeholders** could develop or support the development of WASH sector-specific HRBA training modules or programmes for training centres, and training programmes on development and humanitarian action, to facilitate the paradigm shift and enable skills development.

Promote the development of operational tools and the dissemination of good HRBA practices in the WASH sector:

- ▶ **Development stakeholders** are encouraged to develop and disseminate project management tools for applying the HRBA to the WASH programme cycle (data collection, situation analysis questionnaires, indicators, quality criteria, monitoring and evaluation, etc.) for use by both head office and field staff.
- ▶ **Development stakeholders** are encouraged to develop or support the design and dissemination of knowledge management documents on the HRBA within the WASH sector in order to document good practices and key implementation principles.
- ▶ **Donors** should support the process of identifying and developing these technical, methodological and knowledge management tools on HRBA and HRBA within the WASH sector.
- ▶ **Governments, UN agencies and donors** should support their partner countries with collecting disaggregated data.

Finance and implement long-term behaviour change and capacity-building activities within development programmes

- ▶ **To enable effective implementation of the HRBA in WASH programmes, official development assistance and humanitarian aid** must be sustainable, multi-annual and useful.
- ▶ **Donors** should propose funding that covers the cost of situation analyses in order to study vulnerabilities and their root causes, power relations, and disaggregated data, and to assess claims and accountability.
- ▶ **Development stakeholders** should support and/or implement HRWS awareness-raising, capacity-building, advocacy (improving public policy and government accountability) and civil society organisation activities, either directly or via strategic partnerships.
- ▶ **Development stakeholders** are encouraged to strengthen their partnerships with civil society organisations working to defend human rights and the HRWS.

Introduction

The COVID-19 pandemic has made access to water, sanitation and hygiene (WASH) inequalities extremely visible, as these are essential services for preventing the spread of avoidable epidemics and waterborne diseases such as cholera, typhoid and diarrhoea. More than ten years after the United Nations (UN) General Assembly's recognition of the human rights to water and sanitation (HRWS) and more than five years after the adoption of the 2030 Agenda for Sustainable Development, nearly a third of people globally still lack access to drinking water (2.2 billion people) and 2 in 3 people (4.2 billion people) have no safe sanitation facilities².

The rights to water and sanitation are vital for leading a life of dignity and are a prerequisite for realising other human rights. Governments have a series of obligations for ensuring the HRWS are fully realised; however, there is still no clear sign that long-term efforts are being made to ensure universal, equitable and sustainable access to these services. UN-Water has warned that governments need to quadruple their current rates of progress³! Climate change, population growth, resource pollution and

the growing financialisation of water are making this need to accelerate progress all the more urgent.

This progress is being hampered by the low political priority afforded to the sector, poor policy implementation and monitoring, chronic under-funding, a lack of accountability and gaps in public participation, which particularly affect the most vulnerable. While the HRWS and commitments for ensuring access to universal services are generally included in government and development stakeholder policies and programme strategies, actually implementing the HRWS principles is creating challenges.

The human rights-based approach (HRBA), which the United Nations has been promoting since the end of the 1990s through bilateral cooperation and NGOs, has paved a way for strengthening the links between development and human rights and thus «for the priorities for assistance to be set within the human rights obligations of governments, and for an emphasis on genuine and meaningful participation»⁴.



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² JMP OMS/UNICEF 2019.

³ UN-Water, Summary Progress Update 2021: SDG 6 - water and sanitation for all, February 2021.

⁴ Frankovits, 2006.

Although the HRBA has been steadily taken up by a growing number of both institutional and non-profit stakeholders, putting theory into practice remains a challenge. This is due to the conceptual nature of this approach, which requires a lot of work to effectively implement, as well as to the fact that some organisations have integrated the approach at the strategic level only. In addition, the conceptual nature of the HRBA has given rise to a wide range of interpretations, both in implementation methods and in scope/aims. Although encouraging innovation to link rights and development is one of the HRBA's strengths, it can also be one of its weaknesses as it requires an understanding of these links that extends beyond standard tools and methods.

While the HRBA seeks to address power imbalances and discriminatory practices, considered to be the structural and root causes of poverty that create inequalities and hamper development, development programming remains too heavily geared towards a service provision-based approach, the limitations of which are becoming increasingly clear when it comes to leaving no-one behind.

The HRBA, however, has real added value as not only does it help build people's and communities' citizen engagement capacities over time and provide them with opportunities for empowerment, it also builds the capacities of governments, institutions and private stakeholders to respect, safeguard and implement human rights and demonstrate accountability. It introduces a new approach to water supply:

«The provision of safe drinking water is no longer perceived as charity, but as a legal entitlement, with individuals at the centre»⁵.

Development and international solidarity stakeholders have an essential role to play in promoting and ensuring the realisation of the HRWS. In 2019, at the global level, Official Development Assistance (ODA) for the sector amounted to 9.2 billion dollars⁶. In its target 6.a, 2030 Agenda seeks to expand international cooperation in the sector and provide capacity-building support to developing countries in water- and sanitation-related activities and programmes. In terms of bilateral disbursements, France's ODA for the sector totalled around 516 million euros in 2019, 87% of which was in the form of loans and 13% was donations⁷. French NGOs are also vital: over the 2015-2017 period, 44 French NGOs secured 329 million euros for their international water and sanitation projects⁸.

Adoption of the HRBA by these stakeholders is vital. Each type of stakeholder has a different role to play: NGOs have a special relationship with communities, especially the most vulnerable; bilateral and multi-lateral cooperation stakeholders have a special relationship with governments; companies have specific ties with their colleagues. Organisations also have a duty to change their practices so that they are more respectful of human rights and to engage fully in realising the HRWS. Progress is being made on implementing the HRBA but challenges remain, both for internal organisation and for programming. The aim of this study brief is to provide an overview of the HRBA within the WASH sector, assess the good practices used by sector NGOs when applying the approach and examine the challenges and obstacles that these NGOs need to address. It also includes recommendations for development stakeholders (governments, UN agencies, donors and NGOs).

⁵ OHCHR, UN Habitat, WHO, The Right to Water, Fact Sheet No. 35, 2010.

⁶ UN-Water, Summary Progress Update 2021: SDG 6 - water and sanitation for all, February 2021.

⁷ OECD CRS database (February 2021).

⁸ Coalition Eau, La contribution des ONG françaises à la coopération internationale pour l'eau et l'assainissement, March 2019. [Only in French]



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From a needs-based approach to the human rights-based approach within the water and sanitation sector

The content of the HRWS

In international human rights instruments, realisation of the rights to water and sanitation is recognised as a vital prerequisite for fully realising other human rights. Specific obligations have been defined in relation to this. In its General Comment No. 15: The Right to Water (2002), the Committee on Economic, Social and Cultural Rights stated that the right to water clearly falls within the category of guarantees essential for securing an adequate standard of living and is inextricably related to the right to health. This gives rise to specific obligations that seek to ensure sufficient water supply and

adequate sanitation for personal and domestic uses, as well as progressive access to appropriate and decent sanitation facilities. Access to water and sanitation is also important for the enjoyment of other rights, such as the right to food and the right to adequate housing. At the same time, the HRWS can be conditional upon other fundamental rights being respected. Thus, for people unable to exercise their rights to adequate housing, education, work or social security, their rights to water and sanitation will be compromised.

There is a growing number of international and regional documents that make explicit reference to the human rights to water and sanitation. Since 1977, access to water has been considered as a human right by United Nations member states, as set out in the Mar del Plata Action Plan (1977). This right was then affirmed in Agenda 21, which was adopted at the United Nations Conference on Environment and Development in 1992. The right to water and sanitation was subsequently incorporated into a series of international principles, guidelines and declarations. Although not legally binding, they provide guidance on the obligations that ensure realisation of this right. The most well-known of these is the 28 July 2010 UN General Assembly (UNGA) resolution (A/RES/64/292) that explicitly recognised:

«The right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights».

Although highly symbolic, this resolution did not meet with consensus (41 member states abstained⁹), nor was the right enshrined in a binding legal instrument. In 2013, the UNGA adopted a resolution by consensus (A/RES/68/157) recalling that:

«The human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and is inextricably related to the right to the highest attainable standard of physical and mental health, as well as to the right to life and human dignity».

As such, recognition of the HRWS is based on the rights guaranteed in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), both legally binding covenants that entail specific obligations for those states that have ratified them. In 2015, further progress was made by the UN General Assembly and Human Rights Council, who recognised that the rights to safe drinking water and sanitation are closely related but have distinct features (Resolution A/RES/70/169).

At the national level, many countries, including South Africa, Bolivia, Ecuador, Uganda, Democratic Republic of the Congo and Uruguay, explicitly refer to the right to water in their Constitutions. The right to sanitation is also recognised in certain countries' Constitutions and domestic legislation, such as in those of South Africa, Algeria, Bolivia, the Maldives, Sri Lanka and Uruguay.

In his 2015 Report A/70/203 on different levels and types of service, the former UN Special Rapporteur on the human right to safe drinking water and sanitation clarified **the principles and criteria underpinning these rights, as set out in Resolution A/RES/64/292, namely that human rights principles apply** (tables 1 and 2) **and services are required to be available, accessible, secure, affordable and culturally acceptable** (table 3).

⁹ 122 member states voted in favour of the resolution, none voted against it; 41 abstained.

TABLE 1: HUMAN RIGHTS PRINCIPLES THAT APPLY TO THE HRWS

It is to be noted that, there is no ‘official’ international terminology or set list of principles; however, the various terms used by the United Nations or different governments cover the following principles:

► APPLICATION OF ALL RIGHTS

Legality: government and relevant stakeholders’ action must be based on domestic and international law. The action taken must not violate or infringe on human rights.

Universality and inalienability: human rights are universal, everybody is entitled to them; no one can voluntarily give them up, nor can they be taken away¹⁰.

Indivisibility: whether civil, political, economic, social or cultural, all rights are inherent to the dignity of every human person; consequently, they all have equal status as rights: they cannot be listed in order of priority and there is no hierarchy of human rights.

Inter-dependence: the realisation of one right often depends upon the realisation of others. For instance, the realisation of the right to health depends on the realisation of the right to water and sanitation.

► EQUALITY AND NON-DISCRIMINATION

Governments are required to take all appropriate measures to prevent all forms of discrimination in legislation and policy, and in practice. Discrimination on the basis of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status, sexual orientation, civil, political, social or other status, the intention or impact of which is to deny the right to water or prevent the equal enjoyment of this right is prohibited¹¹.

Achieving equality does not mean that everybody should be treated identically. With respect to the HRWS, while governments must ensure that water resource allocation facilitates universal

access, the types of service introduced can be adapted to the circumstances and context. For example, collective sanitation facilities can be installed in some areas, whereas in other areas, individual sanitation facilities may be used. In addition, some people or groups have specific needs that must be taken into account. States must adopt targeted and affirmative measures, giving preference to certain groups and individuals in order to redress discrimination (these could include women and girls with regard to menstrual hygiene, as well as minority groups, displaced persons, migrants, refugees or prison inmates); states have an obligation to provide water and the necessary facilities to those people unable to afford them.

► PARTICIPATION AND ACCESS TO DECISION-MAKING PROCESSES

People should be able to express their views with regard to the decisions that affect them¹². For WASH, individuals and communities should be able to influence decisions on water and sanitation service types and management models. Participation should enable formal and real access to public life. Participation is an end

in itself and this means that people need to be empowered to ensure their active, free and meaningful involvement. Empowerment is not a recognised human rights principle, but it is often linked to the participation principle. It refers to a process through which an individual or group increases their control over events or processes that affect their lives, understands their rights, and is able to claim and exercise these rights.

► ACCESS TO INFORMATION, TRANSPARENCY

Access to information is recognised as a fundamental right¹³. Participation in decision-making is only effective if there is access to sufficient and accurate information, particularly as regards service costs, sustainability and related

health and environmental concerns. Access to information is vital for enabling people to hold their representatives to account, monitor budgets and make informed decisions about their use of WASH services. Access to information includes the right to seek, receive and impart information on water-related issues.

► RESPONSIBILITY AND ACCOUNTABILITY

The principle of accountability introduces a relationship of obligations between a state and its citizens. States have an obligation to realise the HRWS and can be held accountable for this. Member states have an overall obligation to progressively realise human rights, as well as specific obligations to respect, protect and

fulfil human rights and extraterritorial obligations (see table 2). States must put accountability mechanisms in place to ensure that people can conduct monitoring to tackle rights violations and unsustainable practices. To this end, monitoring needs to go beyond physical services and also focus on inequalities in access to services within countries, cities and settlements.

► JUSTICIABILITY

Where there are inequalities in access, or where the state is not progressively realising the HRWS using maximum available resources, or otherwise not meeting its human rights obligations, people must be able to gain access to justice. People must be able to challenge human rights violations in the national, regional

or international courts. These challenges can be both administrative and legal in nature. To be justiciable, economic, social and cultural rights, such as the HRWS, must first be incorporated into domestic legislation and redress mechanisms should be put in place. Where this is not the case, individuals can appeal to higher courts (regional and/or international).



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¹⁰ Universal Declaration of Human Rights (UDHR), Article 1: «All human beings are born free and equal in dignity and rights».

¹¹ Article 2 of the UDHR states that «Everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind [...]». The ICESCR specifies that the rights set out in the Covenant «will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status».

¹² Note d'expertise sur la participation citoyenne pour l'eau et l'assainissement, Coalition Eau, October 2019. [Only in French]

¹³ Article 19 of the UDHR stipulates that the right to freedom of expression «includes the freedom [...] to seek, receive and impart information and ideas through any media». Article 19 of the ICCPR contains a similar provision. In 1946, the UNGA affirmed that «freedom of information is a fundamental human right».

TABLE 2: ESTATES' HRWS OBLIGATIONS

► **GENERAL OBLIGATION OF PROGRESSIVE REALISATION AND MAXIMUM AVAILABLE RESOURCES¹⁴**

States must progressively ensure the full realisation of these rights, which requires them to work as quickly as possible towards achieving this goal. Progressive realisation does not mean that states can postpone the realisation of these rights indefinitely. They must define national objectives based on national priorities and resource constraints, and coherently develop their strategies and action plans for which they must be held to account.

This progressive realisation obligation requires that: **i/** states demonstrate that they are doing everything in their power to protect and promote

these rights; **ii/** they take concrete, deliberate and targeted steps to fulfil the HRWS; and **iii/** states must not take retrogressive measures unless they can demonstrate that they have carefully weighed up all options and that these measures are entirely justified with respect to other human rights.

The improvements made to services must be sustainable, which means that they must be maintained in order to avoid slippages and retrogression. Sustainability encompasses much more than service reliability and operation: services must be ensured for future generations and ensure a balance of the different dimensions of economic, social and environmental sustainability, particularly as regards the availability of water resources¹⁵.

► **SPECIFIC OBLIGATIONS TO RESPECT, PROTECT AND FULFIL**

The obligation to respect means that states may not prevent, either directly or indirectly, people from enjoying their human rights. For example, a state cannot restrict access to WASH to part of its population, interfere in traditional water-sharing arrangements, pollute water through the discharge of waste or destroy infrastructure as a punitive measure.

The obligation to protect means that states must protect people and groups against human rights violations committed by third parties. They must notably take all necessary steps to prevent – and

sanction, if required – individuals or companies refusing to supply water, polluting or unfairly harnessing resources and water distribution systems.

The obligation to fulfil (provide) means that states must: **i/** take positive steps to help individuals and communities to enjoy their right to water; **ii/** carry out activities to disseminate appropriate information on the hygienic use of water, the protection of water sources and methods to minimise water wastage; and **iii/** provide this right when individuals or groups are unable, for reasons beyond their control, to realise the right themselves with the means at their disposal.

► **EXTRATERRITORIAL OBLIGATIONS**

States must respect the realisation of the right to water in other countries. This means: **i/** refraining from actions that interfere, directly or indirectly, with the enjoyment of the right to water in other countries; **ii/** refraining from imposing, whether directly or indirectly, embargoes or similar measures that prevent the supply of water, as well as goods and services essential for securing the right to water, on other countries; and **iii/** taking steps to prevent their own citizens and companies from violating the right to water of individuals and communities in other countries.

Depending on the availability of resources, states should facilitate realisation of the right to water in other countries, for example through the provision of water resources, financial and technical assistance. International assistance should be provided in a manner that is consistent with human rights standards and culturally appropriate.

States should ensure that the right to water is given due attention in international agreements and, to that end, should consider the development of further legal instruments.

¹⁴ For more information, please refer to: the Committee on Economic, Social and Cultural Rights General Comment No. 15: The Right to Water and the fact sheet on the right to water.

¹⁵ Realising the Human Rights to Water and Sanitation: A Handbook by the UN Special Rapporteur Catarina de Albuquerque, 2014.

TABLE 3: HRWS CRITERIA¹⁶**► AVAILABILITY**

There must be a constant and sufficient quantity of safe water, as well as a sufficient number of

sanitation and handwashing facilities available, for personal and domestic use.

► ACCESSIBILITY

Water and sanitation facilities must be physically and safely accessible within or in the immediate vicinity of each household, health or education institution, other public places and the workplace. All users should be able to access and use them

without discrimination, especially those with special access needs, such as children, women, elderly persons, and persons with disabilities. The facilities' design, the distance and time required to reach them, as well as the physical safety of users, must all be taken into consideration.

► AFFORDABILITY

Water, facilities and services must be available at a price that is affordable to all people and that does not limit people's capacity to acquire other basic goods and services guaranteed by other human rights, (such as the right to food, housing, education, etc.). Affordability does not

mean that services are to be provided free of charge; however, when people are unable to access these services through their own means, the state is obliged to find solutions for ensuring their access at an affordable price or free of charge, and for providing them with assistance for hygiene services.

► QUALITY AND SAFETY

Water, sanitation and hygiene facilities must be safe to use. Water must be safe, and thus free of micro-organisms, chemical substances, and radiological hazards that could harm people's health. Sanitation facilities must meet satisfactory

hygiene standards and effectively prevent human and animal contact with human excrement to avert the spread of disease. They must ensure access to safe water for handwashing and menstrual hygiene and be technically safe to use. Hygiene promotion and education are encouraged to ensure good hygiene practices.

► ACCEPTABILITY

Water must be of an acceptable colour, odour and taste, in addition to being of sufficient quality. Sanitation and hygiene facilities must be culturally acceptable so as to ensure privacy and dignity. Personal sanitation and hygiene are highly sensitive issues, or even taboo, in certain regions and communities. The design, positioning and conditions of use of these facilities must therefore take specific cultures into account.



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¹⁶ UN Special Rapporteur on the HRWS, Leo Heller, Report A/70/203 on different levels and types of service, 2015.

The integration of human rights into international solidarity policies and programmes

The links between human rights and development were recognised by the international community with the adoption of the Charter of the United Nations in 1945¹⁷. However, up to the end of the 1990s, human rights and development remained distinct, due predominantly to the ideological divide that prevailed during the Cold War. Development assistance initiatives implemented by the international community focused on the «technical reduction of poverty», which involved interventions to meet basic needs that were identified in advance by public authorities and civil society organisations¹⁸. This is the «needs-based approach», which mainly consists of providing goods and services. In order to reduce poverty, a pragmatic approach to meeting needs was adopted by development cooperation organisations, who became «technical assistance experts»¹⁹.

At the World Conference on Human Rights held in Vienna in 1993, human rights were reaffirmed as being indivisible and interdependent, and the linkage between human rights and development was reasserted. There are a number of reasons for this change: **i/** the end of the Cold War, which fostered greater consensus on the importance of ESCR; **ii/** the failure of structural adjustment programmes, caused largely by a lack of responsibility on the part of the state; **iii/** expansion of the definition of poverty from lack of access to goods to a lack of capacities to enjoy certain basic freedoms recognised as being fundamentally valuable for minimal human dignity²⁰; **iv/** the emergence of the concept of human

development; and lastly, **v/** institutional changes within the UN that enabled the cross-cutting mainstreaming of human rights²¹. A new approach, based on human rights, thus emerged in the mid-1990s within a renewed political landscape.

With the launch of their reform programme in 1997, the United Nations began mainstreaming human rights in their development and humanitarian assistance programmes²². The aim was no longer to simply meet aid beneficiaries' needs, but to ensure that the rights of each person were upheld by basing interventions on human rights principles. In order to ensure that a common approach is adopted by United Nations agencies, funds and programmes at all levels, the «common understanding of the human rights-based approach to development cooperation and development programming» was developed in 2003²³. This statement of common understanding specifically declared the HRBA to be a principle that should guide development assistance programming. The HRBA was endorsed by states at the World Summit held to discuss the reform of the United Nations in 2005²⁴.

At the same time, when developing their policies and programmes, bilateral cooperation agencies, such as the Swedish, German, English and Norwegian development agencies, started to incorporate approaches that focused on mainstreaming human rights at the end of the 1990s or beginning of the years 2000. Each of these development agencies published framework documents setting out their

¹⁷ Charter of the United Nations, signed on 26 June 1945, Chapter 1, article 1, al. 3, «The purposes of the United Nations are: [...] To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all».

¹⁸ UNFPA, The Human Rights-Based Approach.

¹⁹ UNDP, Mainstreaming Human Rights in Development Policies and Programming: UNDP Experiences, March 2012.

²⁰ OHCHR, 2004.

²¹ French Ministry for Europe and Foreign Affairs, Expert report produced by Gret and Ciedel, How to ensure effective popular participation in development projects? An illustration through the operationalisation of the human rights-based approach, 2020.

²² UNDP, Mainstreaming Human Rights in Development Policies and Programming: UNDP Experiences, March 2012.

²³ UNSDG Human Rights Working Group, The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies, September 2003; UN Practitioners' Portal on Human Rights-Based Approaches to Programming, Development Cooperation's Human Rights Based Approach: Towards a Common Understanding Among UN Agencies.

²⁴ UN General Assembly Resolution 60/1, 2005 World Summit Outcome (16 September 2005), A/RES/60/1.



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specific understanding of the HRBA²⁵. Other, mostly non-profit, organisations adopted approaches that promoted social rather than legal justice, and that focused on the equity and dignity of vulnerable people and groups. INGOs such as CARE, Action Aid or Oxfam thus integrated the HRBA into their policies and programmes, albeit in different ways²⁶.

The links between human rights and development were gradually strengthened and were included in the 2030 Agenda for Sustainable Development²⁷ that, through the achievement of 17 interdependent goals, seeks to ensure people «benefit from social and economic development», to «fully realise human rights for all» and «end poverty in all its forms». More specifically, the HRWS are explicitly mentioned in the 2030 Agenda, and the SDG 6 targets, which focus on achieving universal access to safely managed water and sanitation services, dovetail

with certain aspects of their normative content. In addition, the HRBA principles of universality and non-discrimination shaped this 2030 Agenda, the core principle of which is to «leave no one behind».

This means that development organisations must specifically focus (especially for access to services) on people who are marginalised and do not fully enjoy their rights in the same way as other groups. This involves examining the reasons for this exclusion and taking positive and targeted measures for ensuring these people are included. The principle of public participation also forms part of the 2030 Agenda, notably in target 16.7, and has also been identified as a separate target for achieving SDG 6, as target 6.b seeks to «support and strengthen the participation of local communities in improving water and sanitation management».

²⁵ Sida, Justice and Peace: Sida's Programme for Peace, Democracy and Human Rights, Swedish International Development Cooperation Agency, 1997, Stockholm; SDC, Promoting Human Rights in Development Cooperation – Guidelines, Swiss Agency for Development and Cooperation, 1997, Bern; DFID, «Eliminating World Poverty: A Challenge for the 21st Century». White Paper on International Development. Department for International Development, 1997, London; Ministry of Foreign Affairs of Norway, Norwegian Government's plan of action for human rights, December, 1999, Oslo.

²⁶ Gready P. and Ensor J., Reinventing Development?: Translating Rights-based Approaches from Theory Into Practice, 2005.

²⁷ United Nations General Assembly Resolution 70/1, Transforming Our World: the 2030 Agenda for Sustainable Development (25 September 2015), Resolution A/RES/70/1.

FRANCE'S MAINSTREAMING OF THE HRBA

In February 2020, France launched its new **International Strategy for Water and Sanitation**²⁸, the primary aim of which is to help effectively implement the HRWS. However, the strategy does not include a process for implementing the HRBA, and the HRWS appear to be more of an aspiration for achieving SDG 6.1 and 6.2.

The required paradigm shift could, however, be brought about by France's adoption of its **Human Rights and Development Strategy Paper**²⁹, at the end of 2019, which affirms France's commitment to converting its development cooperation policy into diplomatic leverage for human rights and to mainstreaming the HRBA into all French development cooperation interventions. According to the French Ministry for Europe and Foreign Affairs (MEAE), the way to achieve sustainable development is through the realisation of human rights, and development programmes should no longer be regarded only as solidarity-based responses but also as tools to support

the application of states' international human rights obligations. To achieve this aim, France has developed an action plan to ensure that, by 2024, none of the projects and programmes that it funds violate human rights and that, in all sectors, these projects and programmes maximise their positive impacts for realising human rights.

Although somewhat late, France's adoption of this approach is a clear step forward. A step forward that has been confirmed by the programming bill on solidarity development and tackling global inequalities, which was presented to Parliament in the first half of 2021: in article 1 of the legislation, the «promotion of human rights» is identified as one of the key objectives of the cooperation policy and «defending the human rights-based approach» is defined as a cross-cutting priority. It should also be noted that water and sanitation management is the 4th sector priority listed in the bill and that France will continue «its efforts to ensure the universal implementation of this human right by particularly focusing on [...] the most vulnerable».

THE EUROPEAN UNION'S MAINSTREAMING OF THE HRBA

In June 2019, the Council of the European Union (EU), which represents the governments of EU member states, adopted the **EU Human Rights Guidelines on Safe Drinking Water and Sanitation**³⁰. This document reaffirms the EU's commitment to ensuring the progressive realisation of the HRWS and recognises the human rights-based approach. This is the first document of its kind to focus on promoting an EU-wide economic, social and cultural right. By building

on human rights principles, these guidelines seek to provide the staff of EU institutions and delegations, as well as its member states, with instructions and guidelines on using the EU's foreign policy instruments, especially those relating to development cooperation, in order to promote and protect the HRWS. Of particular note is the importance afforded to supporting human rights defenders, who are identified as «indispensable partners in the promotion of human rights and democratisation in their respective countries, as well as in international/global cooperation».

²⁸ French Ministry for Europe and Foreign Affairs, France's International Strategy for Water and Sanitation (2020-2030).

²⁹ French Ministry for Europe and Foreign Affairs, Human Rights and Development: A Human Rights-Based Approach to Development Cooperation, February 2021.

³⁰ Council of the European Union conclusions on EU Human Rights Guidelines on Safe Drinking Water and Sanitation, 17 June 2019.

The HRBA concept

The aim of the HRBA is to ensure that the respect, protection and promotion of human rights for all are integrated into public policy and development programmes. Based on human rights principles, the HRBA seeks to analyse and tackle the structural and root causes of rights violations and redress discriminatory practices and unjust distributions of power that impede development progress³¹.

The HRBA thus addresses power imbalances between people and government systems and seeks to create accountability between rights-holders and the duty-bearers responsible for meeting the relevant obligations set out in international law. As such, the main distinguishing feature of the HRBA is that it deals not just with realisation of human rights outcomes but also with how those outcomes are achieved. For example, if an influential figure personally intercedes to ensure an authority takes steps to help a vulnerable community, while the outcome may well be that this community is provided with a service for a time, there would be no guarantee of sustainability. The HRBA will help institutionalise mechanisms to ensure that the HRWS are realised over the long-term and through the respect of human rights. What does this mean?

People and communities are no longer passive recipients of assistance that is provided without their opinion being sought, instead they are recognised as having a key role to play in the realisation of their rights: people, i.e. all citizens, are rights-holders,

actors in their own development, and should be supported with claiming these rights. Poor and marginalised groups are often excluded from public and private debates and unable to influence the decisions that impact their daily lives. The HRBA affirms that these people should be fully informed of their rights and have the ability to participate in decision-making in order to rectify any imbalances. The HRBA aims to facilitate the process by which people are able to hold their government to account, thereby enabling them to exercise and claim their rights.

At the same time, public action is no longer seen as an «assistance» tool but as a way of implementing and sustaining rights for all. Under international law, the prime responsibility for ensuring the full enjoyment of rights lies with states, followed by other responsible stakeholders, such as civil society organisations or the private sector. As a duty-bearer, the state has the obligation to uphold, protect and assert human rights by creating an enabling environment for exercising these rights and by being held accountable for their implementation. In order to ensure the effectiveness of human rights, human rights principles need to be mainstreamed into public policy development, implementation and monitoring (see tables 1 and 2). These principles help improve the way services are planned, budgeted, implemented and maintained so as to achieve universal access, without discrimination, and prioritising those most in need.



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³¹ Office of the United Nations High Commissioner for Human Rights, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*, 2006.

The added value of the HRBA in the WASH sector

Implementing international commitments and facilitating the formulation of public policy

The HRBA helps states to translate commitments from the international instruments they have ratified into achievable objectives for policies, legislation and national budgets by clearly defining which criteria should be respected. For the WASH sector, public policy and service provision standards should meet the criteria of this right (see table 3), as well as human rights principles (see table 1 and 2). The recommendations produced by the HRWS rapporteurs, treaty bodies, human rights-based sustainable development agreements such as the 2030 Agenda, the JMP³² and GLAAS³³ guidelines also help states define their objectives.

The legal scope of the human rights framework

The majority of countries already have mechanisms in place for facilitating access to WASH services, such as subsidies for vulnerable people. This right can be covered by legislation but can also be modified by future governments. The HRBA is based on fundamental rights as defined under international law and, thus, states must not contest or impede the realisation of the HRWS but must instead progressively implement them. By introducing respect for human rights, as defined under international law, into national debates on public and development policy issues, the HRBA helps to prompt states to act and ensures that the measures taken to fulfil the HRWS are not scaled down or changed at will by successive governments, even if the HRWS have not yet been enshrined in national legislation³⁴. In addition, should their rights be violated, people should be able to engage in legal proceedings and, if there are no remedies provided for under national law, individuals should be able to take their case to the regional or international courts.

Developing a better understanding of the causes of inequalities and restoring the balance in power relations through use of an objective framework

The purpose of the HRBA is to tackle the underlying structural causes of inequalities by identifying the injustices that stem from political, social and cultural structures. This is in contrast to the needs-based approach, which considers inequalities as a lack of access to basic needs, albeit with a sometimes narrow view of what basic needs are, and focuses on hardware and facilities. In the collective imagination, which continues to inform state and development stakeholders' practices, the excluded are often considered as minority. In reality, there are billions of people around the world who are excluded from services because of structural inequalities, which are linked to a wide range of vulnerability factors. In sub-Saharan African countries, the excluded are in the majority: 73% of the population are without access to safely managed drinking water services and 82% have no access to sanitation services³⁵. The HRBA not only promotes awareness of existing structural inequalities, it also increases stakeholders' accountability for realising the HRWS. By removing obstacles and conflict, it helps restore balanced power relations and dialogue between the authorities and the public. This also helps to progressively persuade states and institutions of the importance of democratic and inclusive governance. Human rights provide a normative and analytical framework that helps to set «objective limits on the phenomenon of elite capture, providing essential minimal human guarantees for the benefit of those suffering the consequences»³⁶.

Ensuring the government plays a central role in the accountability process

Under the HRBA approach, the government must fully assume its role in establishing dialogue, transparency and accountability with its citizens.

³² JMP: Joint Monitoring Report de l'OMS et de l'UNICEF sur le suivi de la mise en œuvre de l'ODD6.

³³ GLAAS: Global analysis and assesement of sanitation and drinking-water (Analyse et évaluations mondiales de l'ONU-Eau sur l'assainissement et l'eau potable, en français).

³⁴ WaterAid (2011) Les approches fondées sur les droits au service du développement de l'accès à l'eau potable et à l'assainissement. WaterAid Document de réflexion. [Only in French]

³⁵ JMP (OMS/UNICEF), Progress on household drinking water, sanitation and hygiene, 2000-2017.

³⁶ Darrow et Thomas, 2005.

Policy development becomes more transparent and enables people to monitor state action and hold the government to account. For the other relevant stakeholders, such as development partners, the private sector, service operators and civil society, the HRBA means no longer taking action without taking into account either the fact that the primary responsibility rests with the state or the need to build state capacities for action. This also helps to build a clear normative framework that can be used to remove obstacles and identify each stakeholder's HRWS obligations.

Institutionalising participation and accountability mechanisms

Under the HRBA, states are required to establish institutions and mechanisms to ensure the effective and sustainable participation of people at all levels, beginning by raising public awareness of rights and access to information, then setting up dialogue mechanisms for jointly developing policies and programmes, and ultimately introducing monitoring systems to enable people to monitor and evaluate the policies and programmes put in place. This can either be through direct participation or through other independent monitoring mechanisms and institutions set up by the state (independent institutions, evaluations, parliamentary reviews, etc.). By building their capacities, people become rights-holders rather than the passive recipients of technical support. Living in a human rights-based environment will ensure people become agents of change, capable of holding the state to account. Human beings and human dignity are placed at the core of development policies and projects.

Targeting the most vulnerable

The aim of the HRBA is to fulfil the rights of the excluded and marginalised, without which countries cannot make sustainable development progress. Vulnerable people should therefore be at the core of development policies and practices. States' governance principles should include non-discrimination and the universality of human rights. With the needs-based approach, development partners address people's needs over a given time but without addressing the structural causes of their exclusion. Under the HRBA, development partners use vulnerability factors to target the most vulnerable and recognise these people as rights-holders. It is no longer only the number of people to be targeted for WASH interventions that needs to be

identified, but also the extent of their empowerment and participation in the relevant service and resource management processes. Meanwhile, states can no longer ignore and overlook an entire population group without violating human rights frameworks. They must recognise the HRWS for all, regardless of whether people live in informal housing, are migrants or refugees, or are socially isolated, and regardless of their legal status. Nobody is 'illegal'; states have responsibilities towards them. States are required to identify, record and target them and provide them with positive solutions that ensure sustainable access to WASH based on their specific needs, such as by introducing a more appropriate service tariff, for example. As it is based on human rights, this approach is inclusive and requires states to take the people being left behind into account.

Complementing the service-based approach

Traditional projects focus more specifically on the immediate causes of poverty linked to human conditions and to life and death situations, such as malnutrition, cholera and natural disasters. They also cover the intermediate causes of poverty that include access to services, skills and technology. The impacts of these projects are tangible, immediate and easily recognisable in people's daily lives. The shift to the HRBA does not mean that these projects are no longer necessary or of value. On the contrary, the HRBA supplements traditional approaches by also tackling the underlying causes of poverty and exclusion, namely social, political and economic structures. Hybrid projects are examples of the continuum of interventions that, when combined, can even more effectively tackle all causes of poverty and social injustice.

A holistic approach that helps advance other sectors

Human rights are interdependent. For instance, the HRWS clearly contributes to the realisation of other rights and vice versa (the right to health, education, food, etc.). The HRBA seeks to eradicate sector-based silos and develop an integrated approach that also helps advance other sectors. A human rights-based policy or programme will provide a holistic view of an issue as it will consider the interdependences between human rights, as well as the social, political and legal environment. It will also determine linkages between communities, civil society and authorities, links between institutions, and stakeholder responsibilities.

Sustainability

In addition to meeting a legal requirement, the HRBA helps improve and increase the sustainability of human development outcomes. It helps enhance both public and the authorities' acceptance and ownership of policies and programmes by anchoring human rights within a framework of laws and institutions. Over time, the HRBA helps strengthen the capacities of individuals and institutions to assert their rights or carry out their obligations³⁷. To reiterate, under the HRBA, the process used to secure rights is just as important as the outcome. A solely results-based approach, such as the needs-based approach, would certainly be quicker to implement, but the outcome would involve providing a service to beneficiaries for a given time without ensuring its sustainability³⁸.

The sustainability of WASH services remains a key issue. In Africa, it is estimated that between 30 and 40% of handpumps are not functional³⁹. Similarly, wastewater plants sometimes cease to be operational a short time after their construction or never reach their optimum capacity. When progress is measured in terms of access, these retrogressions are not systematically monitored and recorded, which can mean that the measured progress is inflated and inaccurate. While retrogression cannot always be avoided during times of crisis, the human rights framework requires that states implement adequate mechanisms for regulation, monitoring and sector oversight and continue to build their capacities in the long-term. States must assess the impacts of their actions on the realisation of human rights and adjust their measures should their policies not lead to sustainable results. The HRBA is relevant at all stages of the development process: from the situation analysis through to implementation and evaluation, inequalities that impede progress must be assessed and rectified.

³⁷ Office of the United Nations High Commissioner for Human Rights, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*, 2006.

³⁸ WaterAid, *Rights-based approaches to increasing access to water and sanitation*. WaterAid Discussion Paper, 2011.

³⁹ *Realising the Human Rights to Water and Sanitation: A Handbook by the UN Special Rapporteur Catarina de Albuquerque*, 2014.

⁴⁰ Oxfam International, *A Rights in Crisis Guide to Influencing, the Who, What and Why of Humanitarian Campaigning*, November 2015.

⁴¹ For more information, please refer to: Action Aid and OXFAM, *Rights-Based Approaches and Humanitarian Interventions in Conflict Situations A Learning and Discussion Document*, 2009; GIZ, Michelle Parlevliet, *Connecting Human Rights and Conflict Transformation*, 2011.

ADDED VALUE FOR PREVENTING AND ADDRESSING SITUATIONS OF CRISIS AND VULNERABILITY

International human rights legislation applies in crisis situations. Human rights and their principles also underpin international humanitarian law and the humanitarian codes and principles adopted and monitored by numerous states, UN agencies and humanitarian NGOs. These include the Code of Conduct for the International Red Cross and Red Crescent Movement, the Humanitarian Charter, and the Sphere Standard⁴⁰.

While in crisis situations, the needs-based approach forms a central part of humanitarian aid interventions (as the aim is to respond to immediate needs essential for survival), the HRBA is a prevention tool that seeks to reduce people's vulnerability to crises and build their resilience. Introducing human rights principles into a society's governance helps address the inequalities that can lead to bottlenecks or conflict, helps strengthen the institutionalisation of dialogue between the authorities and the people, and fosters nonviolent social change. Anchoring systems to human rights principles makes them more reactive and resilient to shocks, and can help ensure implementation of the humanitarian-development nexus by adopting a sustainable approach from the very outset of the crisis.

Implementation of the HRBA is even more vital during crises as retrogression in the realisation of human rights in these situations cannot always be avoided. During times of conflict, natural disaster or health crises, human rights principles inform the response or conflict resolution/transformation. The main aim is to provide humanitarian assistance to the most vulnerable people affected. Achieving this will involve enabling people to participate in managing the crisis (as they are always the first to take action), and to exercise their rights to protect them from violence and help develop solutions. Making authorities or two sides in conflict accountable for providing high quality assistance, ensuring transparent funding allocations and setting up conflict response or resolution mechanisms remains a huge challenge, particularly where situations have deteriorated to the point where there is a risk of corruption and the breakdown of institutions⁴¹.

Implementing the HRBA in international solidarity WASH programmes

While the HRWS and commitments for ensuring access to universal services are usually included in policies and programme strategies, actually applying the HRBA and its underlying principles to government institutions' and sector organisations' daily practices remains a challenge and requires changes to intervention methods. According to the former UN Special Rapporteur on the HRWS, Leo Heller, the HRBA has still not been properly incorporated by policymakers, sector experts or development cooperation practitioners in the water and sanitation sector⁴². He affirms that non-state actors can be held accountable for complying with human rights obligations. He highlights the fact that the HRBA is important for development programming because projects can have positive or negative impacts on the realisation of human rights depending on the extent to which these projects take human rights standards and principles into account⁴³. What challenges need to be addressed to enable sector NGOs and development organisations to apply the HRBA?



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HRBA-related good practice

The evaluation and knowledge-sharing processes used by development cooperation agencies and civil society organisations have led to the common and progressive identification of «good programming practices». HRBA implementation is in line with the majority of these good practices,

yet also goes further as it requires a paradigm shift in the way development cooperation actions are designed. The table below provides a summary of the linkages and differences between the needs-based approach, good programming principles and the HRBA⁴⁴.

⁴² Report A/71/302 (August 2016) and report A/72/127 (July 2017) by the UN Special Rapporteur on the HRWS Leo Heller on the role of development cooperation in the realisation of the human rights to water and sanitation.

⁴³ Ibid.

⁴⁴ Sources: WaterAid (2011) Rights-based approaches to increasing access to water and sanitation. WaterAid Discussion Paper. Brockelsby, Mary-Ann and Sheena Crawford (2005); Rights-Based Development: A Guide to Implementation, p. 12. Adapted from: Save the Children (2000): An introduction to Child Rights Programming: Concept and Adaptation. London: The Save the Children Fund, p. 17. Urban Jonsson, Human rights approach to development programming, UNICEF, 2003, p. 21.

TABLE 4: THE LINKAGES AND DIFFERENCES BETWEEN THE NEEDS-BASED APPROACH

OBJECTIVE ▼	CONCEPT OF VULNERABILITIES ▼	DIGNITY AND THE ROLE OF INDIVIDUALS ▼	POWER RELATIONS ▼
NEEDS-BASED APPROACH			
<p>Basic needs are met.</p> <p>Needs are not necessarily universal.</p> <p>Needs can be ranked in order of priority, which helps determine the order in which the scarce resources are allocated.</p>	<p>Vulnerability is seen as a lack of material goods and/or services.</p> <p>This approach focuses on the symptoms of discrimination rather than its causes. It does not address the injustices at the root of inequalities and can thus perpetuate inequalities by strengthening unequal positions of power.</p>	<p>Programmes and policies are defined and implemented unilaterally using a top-down approach.</p>	<p>This approach does not engage with power relations issues. It is more likely to approach current power holders for help, thus unconsciously enhancing their power.</p>
GOOD PROGRAMMING			
<p>The objective of the programmes and projects is to address people's basic needs.</p> <p>Long-term objectives include reducing or eradicating poverty and reducing disparities.</p>	<p>Programmes are based on a situation analysis that identifies priority issues and their immediate, underlying and fundamental causes, which should be addressed either concurrently or consecutively.</p> <p>Programmes focus on vulnerable groups.</p>	<p>Wholly top-down approaches should be rejected as they run counter to the principle of 'human agency'. Purely bottom-up approaches should also be dismissed as they are unrealistic.</p> <p>Instead, synergy between top-down and bottom-up approaches is encouraged.</p>	<p>The analysis of roles, stakeholders and power relations is considered essential for developing programmes and evaluations as it helps clearly identify responsibilities within the community and society.</p>
HUMAN RIGHTS-BASED APPROACH			
<p>Programmes' primary development method and objective is the effective implementation of respect for basic rights, which requires steps to be taken to eradicate human rights violations by enabling people to play a role in their own development and enabling institutions to take on their role as duty-bearers.</p> <p>Human rights are always universal. They are indivisible because they are interdependent.</p> <p>Everybody, without discrimination, must be able to access their rights, even if resources are scarce.</p>	<p>Vulnerability is seen as a structural issue caused by unequal power relations in society, which exclude certain groups or individuals from social political and/or economic spheres.</p> <p>The HRBA requires that the causes of discrimination at all levels are addressed – immediate, underlying and structural – by reviewing the traditional, social, cultural and legal practices and standards that perpetuate injustice.</p> <p>The indivisibility of human rights means that all causes must be addressed as they are all linked.</p> <p>Programmes focus on the vulnerable, marginalised and excluded.</p>	<p>The HRBA involves human-centred development in which external assistance acts as a catalyst and supports states' and people's own efforts. A country's realisation of human rights must come from within and be supported. The HRBA requires respect for local knowledge and for human dignity.</p>	<p>The HRBA focuses on addressing unequal power relations with the aim of restoring balance. Throughout the programme cycle, it is therefore essential to identify the key relationships between stakeholders, i.e. between all rights-holders and duty-bearers. As the core aim of the HRBA is to change power relations, this analysis goes further than traditional stakeholder analyses by assessing rights-holders' claims on duty-bearers and determining these stakeholders' capacities for action.</p>

CITIZENSHIP / PARTICIPATION	ACCOUNTABILITY	SUSTAINABILITY	PARTNERSHIPS	EFFICIENCY
NEEDS-BASED APPROACH				
<p>Citizens are perceived as passive recipients deserving of assistance (charitable view of aid).</p> <p>Only a select number of people have the know-how required to meet their needs.</p>	<p>The government is not always legally obliged to take action. Accountability is not required by stakeholders and can be limited to reporting on the use of donor funds.</p>	<p>Needs are met or addressed at a given point in time.</p>	<p>The partnerships developed relate to the project that is to be implemented (sub-contracting, ad-hoc operational partnership, etc.).</p>	<p>Project efficiency is measured using a «low cost/ number of people» ratio: the aim is to cover as many «beneficiaries» as possible for a low cost per person.</p>
GOOD PROGRAMMING				
<p>People cannot «be developed», they must develop themselves and be recognised as key agents in their own development rather than as passive recipients of goods and services.</p> <p>Participation is essential, both as an end and a means. This should not just be confined to the NGO project; the NGO should instead support people's development efforts.</p>	<p>The monitoring of results, processes and of the actual use of information for decision-making at all levels of society is essential for effectively planning strategies and programmes over the long-term.</p>	<p>The need for scale-up should be taken into account at the planning stage. Efforts should be made to ensure that positive changes are sustainable.</p>	<p>All potential partnerships with strategic allies should be explored, including with donors and NGOs/CSOs, especially for securing additional funding.</p>	<p>Project efficiency is also measured using a «low cost/ number of people» ratio, but is further assessed using pre-defined qualitative indicators.</p>
HUMAN RIGHTS-BASED APPROACH				
<p>Individuals are rights-holders. Citizens are seen as significant actors in a democratic state.</p> <p>Participation is a core human rights principle and people must be empowered to ensure their active, free and meaningful involvement in the development process.</p> <p>Human rights-based programming should include capacity-building to help communities understand their rights, claim these rights, and play a significant role in realising these rights. Programmes thus seek to empower people. Everybody can claim and work to realise their rights.</p> <p>Participation is both an end in itself and a process to empower people to claim their rights.</p>	<p>The state and other service providers are legally required to fulfil their obligations to respect the rights of all, especially the most vulnerable.</p> <p>The HRBA seeks to ensure the accountability of duty-bearers. Fulfilment of the obligations to act, make progressive efforts and achieve results must be constantly verified. This requires monitoring at all levels and the use of information to define new measures for respecting and protecting human rights.</p> <p>The HRBA involves mutual accountability; all individuals are also duty-bearers who can be held accountable for their actions or lack thereof.</p>	<p>Under the HRBA, actions focus on improving the overall framework and environment over the long term. The HRBA not only requires positive human rights outcomes, it also requires that these human rights are realised using a process that respects human rights principles (monitoring and evaluation of programme outcomes and processes with regard to human rights standards and principles). The progressive realisation of human rights needs to be sustainable and all slippages and retrogression must be avoided.</p>	<p>The indivisible and interdependent nature of human rights means that strategic partnerships are encouraged to provide the most holistic response possible, as no organisation can or should do everything all by itself. The comparative advantages of the various partners will determine which measures each partner is to implement. A key tenet of the HRBA is that the project «targets» are considered partners in their own right and a proper partnership with these «targets» needs to be developed.</p>	<p>Project efficiency should be considered in conjunction with sustainability and stakeholder ownership. A project's efficiency is measured by its impact on social, political and legal change. Effecting these changes requires significant financial investment and long-term commitments.</p> <p>Human rights standards provide a framework for developing measurable objectives and programme indicators.</p>

HRBA pillars for NGO programming

Although sector organisations are familiar with the HRWS and these are mentioned in NGOs' institutional strategies, the HRBA entails specific changes to NGOs' working methods. The transition from a needs-based approach or good programming principles-based approach to the HRBA involves incorporating HRBA-related actions into programmes. Programme design will move away from a «services only» mindset to sustainably tackle the causes of inequalities, which have been identified through the situation analysis. Under the HRBA, projects are structured around three key pillars; the extent of the interventions required for each of these pillars will vary based on the results of the analyses carried out.

PILLAR 1

Implement direct measures to address inequalities in access.

In areas with low coverage and thus substantial improvement requirements, working with the most vulnerable to sustainably ensure the HRWS will encourage NGOs to acquire new skills and allocate specific resources to supplement the technical skills required for direct service delivery. For example, to enable the most disadvantaged households to purchase culturally acceptable facilities, or facilitate payment for services, considerable social support may be required. This will require teams to closely monitor households over time to ensure their participation throughout the project, as well as to help resolve land and local government tax issues, and determine the economic viability of services given people's capacity to pay. These points lead us onto pillar 2: tackling inequalities in access by only implementing direct measures for the most vulnerable is not enough. These measures have to be guided and supported by public policy.



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PILLAR 2

Build the capacities of the relevant stakeholders to ensure they fulfil their obligations (political, practical, and legal).

It is essential to support public authorities and service operators so that they are able to develop inclusive policies and equip themselves with the tools required to provide universal and sustainable services. This means creating real partnerships with the authorities for improving sector governance, and supporting rather than leading interventions. This could involve developing awareness-raising and training activities and providing technical assistance to define public policy and action plans, from the local through to the national levels.

In addition to improving stakeholder capacities and skills, their accountability is also key: in order to address service failings and realise individuals' rights, governments and public organisations, as well as operators, must be both accountable and responsive. Here again, it may be necessary to support the introduction of new institutional mechanisms or help improve the mechanisms already in place.

In some cases, it can prove difficult to convince authorities of the merits of certain political strategies, particularly those that target the most vulnerable. Policymakers sometimes prefer to adopt general arrangements that benefit as many people as possible and can be reluctant to implement social tariffs, for example. In other cases, specific population groups are deliberately excluded due to structural discrimination. In these situations, field practitioners should step up their advocacy efforts (pillar 1 interventions can include the development of an 'evidence' base to inform advocacy campaigns). The HRBA is extremely relevant here for ensuring states respect their obligations under international law. In relation to this, NGOs, especially those from a foreign country, should partner with communities and local civil society groups to speak on behalf of the most vulnerable and promote changes in policy. Which brings us onto pillar 3.

PILLAR 3

Build the capacities of rights-holders to claim their rights and ensure duty-bearers are held to account.

The aim is to enable vulnerable people to assume their rights and foster the construction of a robust local civil society able to challenge unequal power relations. NGOs develop rights awareness-raising methodologies, create users' associations, support communities to ensure their effective and sustainable participation in decision-making, and build their advocacy capacities. NGOs should, of course, work with local groups. There are many CSOs (Civil Society Organisations) and networks in place, and partnerships should be forged directly with these groups to strengthen them. Developing partnerships with CSOs that specialise in the realisation of human rights is useful for reinforcing human rights advocacy.

Implementing these activities can sometimes be complicated by restrictions on civil society space (under dictatorships, for example), by a lack of willingness on the part of local stakeholders to take ownership of the issues, or by local CSOs' lack of financial and technical resources. As with the duty-bearers, awareness-raising and capacity-

building will take time. It will also be necessary to disseminate information that is tailored to vulnerable people and, sometimes, to bring in new technical skills, such as for advocacy for example (many NGOs are now developing advocacy campaigns using their own advocacy teams or are members of advocacy groups).



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THE END WATER POVERTY 'CLAIM YOUR WATER RIGHTS' CAMPAIGN



In 2020, End Water Poverty (EWP), an international network of CSOs and NGOs of which Coalition Eau is a member, launched its Claim Your Water Rights campaign to mobilise civil society, young people and marginalised groups to assert their HRWS, raise people's awareness of the injustice of their situations and help them to claim their rights.

End Water Poverty proposes that people directly claim their human rights to water and sanitation by lodging complaints of human rights violations to National Human Rights Institutes (NHRIs). NHRIs are responsible for holding governments and service providers accountable for providing water and sanitation services that meet human rights standards. They have the authority to receive complaints from rights-holders, investigate these complaints on the rights-holders' behalf, and proceed to court to seek justice. They can also submit thematic reports to the UN Human Rights Council as part of the Universal Periodic Review, as well as reports from national SDG working groups.

End Water Poverty supports its CSO partners to take part in the campaign and provides human rights and media training (via webinars and workshops), develops national 'how to' guides and general guides on the NHRIs. EWP also organises peer-to-peer learning (sharing of experiences and good practices), provides press release templates and creates communication materials (tweets, graphics, blogs, etc.).

PROJECT to improve water resource management for domestic and agricultural use through wastewater recycling

Gaza Strip - Secours Islamique France

Building the capacities of the public authorities to help them implement their strategy

The Gaza Strip is suffering from a major water crisis due to the depletion of its only water resource, the coastal aquifer, which covers 95% of all uses: there is not enough drinking water to meet the people's needs and a lack of sanitation. According to WHO, 97% of water from the aquifer is not fit for drinking as it has been polluted by over-pumping. As a result, 90% of Gaza's inhabitants purchase desalinated water. This costs 10 to 30 times more than tap water, is unregulated and often of dubious quality. For sanitation, there are only 3 wastewater treatment plants and these are overloaded. Untreated wastewater is discharged directly into the sea causing serious damage to biodiversity.

This situation is the result of repeated violations of Palestinians' human rights to water and sanitation in Gaza: the unequal distribution of water resources due to the Israeli-Palestinian conflict; the blockade of the Gaza Strip and Israel's restrictions on the entry of materials, which complicates efforts to rehabilitate and maintain the facilities; frequent power shutoffs that prevent facilities from operating correctly; and the damage and destruction of water and sanitation infrastructure caused by frequent bombing campaigns. These factors are compounded by the difficulties in managing water resources and services encountered by the Palestinian authorities, who suffer from a fragmented organisational set-up and a lack of resources.

In this crisis situation where the realisation of the HRWS hinge on the conflict being resolved and on public international law and international humanitarian law being respected, as promoted in SIF's advocacy campaign, it is also vital that the Palestinian authorities do their utmost to ensure equal access to water and sanitation to all Gazans through planned management involving all stakeholders.

In order to foster the realisation of the HRWS of Palestinians in Gaza, SIF implemented a pilot project in 2018 to help improve wastewater management for reuse for 100 vulnerable households. This project is aligned to Palestine's national water and wastewater strategy (2012-2032), the aim of which



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is to «increase the water available for irrigation», and to Palestine's water sector action plan (2017-2022) that aims to improve wastewater management services (collection, treatment, reuse). The project has set up a household-based greywater treatment system that reuses this greywater to irrigate crops and orchards, and for flushing household toilets, thereby reducing the demand for drinking water. Following the success of this project, SIF has extended it for a further 3 years (2020 – 2022), and added a capacity-building component that focuses on improving wastewater reuse by communities and public stakeholders. In 2020, SIF installed this greywater treatment system in 120 households and is set to install 100 more systems in 2021.

To ensure the project has a sustainable impact, SIF works closely with the different authorities, municipalities and Palestinian Water Authority, delivering workshops on separating grey and blackwater and facilitating the installation of the greywater treatment systems, in line with their sector strategy. This project seeks to build the capacities of the relevant organisations and communities to manage water resources over the long-term and protect the environment, a necessary step for implementing the integrated management of wastewater resources: in addition to helping households, greywater can be reused to irrigate agricultural crops (olives, citrus fruit trees and date palms) in rural areas, and can also be used in schools and public and residential buildings.

PROJECT to improve the public water service in Aného and water and sanitation services in Tabligbo

Togo - SEVES and Experts Solidaires

Price regulation and the human rights-based approach

In Togo, Experts Solidaires and SEVES are supporting municipalities, national public water service assets management and operating companies and civil society organisations to improve access to drinking water in five of the country's secondary cities. The project is focusing particularly on standpipe management, responsibility for which is split between the municipalities, who is responsible for the equipment, and Togolaise des Eaux (TdE), who is responsible for water supply. In 2000, the prefectures and/or special delegations (with a non-elected council, prior to the decentralisation reform) delegated operation of the standpipes to individual managers. Within the project target areas, two major issues were identified for people without household connections: some standpipes were privatised and turned into private connections, some were permanently closed down without consulting the community of users, and the opening hours for others were set at the discretion of the standpipe manager, plus, the prices charged were two to three times higher than the regulatory price (500 CFA Francs/m³); in addition, there were conflicts of interest as some of the standpipe managers were also special delegation members. These issues therefore meant that the accessibility and affordability criteria of the human right to water could not be met.

Work was carried out to train and support local authorities to bring standpipe management back under local government control, and consultations were also held with neighbourhood development committees. These activities enabled the following resolutions to be agreed with stakeholders: (1) standpipes are not private installations and public service delegation involves duties that the managers are required to fulfil (availability, price); (2) the delegating authority is the local authority, who should ensure delegated managers maintain the required service quality and ensure optimum coverage; (3) the neighbourhood development committees have a major role to play, both in ensuring the standpipe managers fulfil their obligations, and in conducting advocacy and lobbying with the local authorities.

Outside of areas where there is high demand, the job of standpipe manager is not a viable occupation due to the way their rate of pay is calculated: TdE standpipe supply price (315 CFA Francs/m³) plus a 185 CFA Francs/m³ margin for the manager and equipment renewal, i.e. 500 CFA Francs/m³ for the user, is higher than the sales price of the first private connection price bracket (social tariff) (190 CFA Francs/m³). Some local authorities with high



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demand for water at standpipes have opted to delegate standpipe management to the relevant local neighbourhood development committees, who are themselves responsible for selecting and monitoring individual standpipe managers. One local authority has delegated the public service to a single operator who is to recruit managers for all standpipes within the authority area, develop income-generating activities, and introduce cross-subsidies between more and less profitable standpipes; the neighbourhood development committees are to remain involved as consumer representatives.

Due to the emergency measures taken during the COVID-19 pandemic, these management models are under threat. Togo's government has passed a decree making water from standpipes free of charge for 4 months, with no compensation for standpipe managers, and has introduced a fourfold reduction in the cost of a private connection (from 100,000 CFA Francs to 25,000 CFA Francs). The meagre economic viability of the standpipes has been wiped out, breakdowns are increasing and there are no provisions in place for repairing the equipment. As soon as payment for water from standpipes is reintroduced, the large-scale increase in households connected to the network will further weaken the standpipes' economic model and demand, thereby adversely affecting access to the service for those households who cannot afford a connection.

In conclusion, due to the fragility of the economic model adopted for standpipes and the complexity of implementing regulation, it has not been possible to introduce specific pro-poor tariffs. Under the human rights-based approach, respecting service management rules (quality, price) and complying with regulation are both key factors for implementing the right to water. Regulation is based on balanced governance and a clear division of responsibilities between the relevant public authority, user representative organisations and the operator, as well as on an economic model and local strategy that ensures users are provided with a sustainable and equitable service. If the national operator charges a relatively high price to deliver water to standpipes, this makes it difficult for standpipe managers to respect the regulated tariff, which is already higher for standpipes than for household connections (social price bracket).

PROJECT Salem

India - Kynarou

Improving the living conditions of Dalits and disadvantaged castes in a complex social and cultural environment

Kynarou has been working in Tamil Nadu in India since 2004 and, this year, launched a new water and sanitation project in the district of Salem. The Salem project was developed following high demand from the inhabitants of the district's villages and local authorities (the 'panchayats', village heads and prefects).

Despite being abolished in 1950, the caste system persists and continues to have a huge impact on water resources' access and management. The health conditions for Indians at the bottom of the social scale are particularly challenging. The social class that continues to suffer the greatest oppression is the Dalits (formerly known as untouchables), of which there are 200 million in India. 93% of people who lack access to drinking water and 60% of those without sanitation facilities in India are Dalits. They are not recognised by the rest of India's population, and the government and higher castes care little about their miserable living conditions.

The extent to which social discrimination is rife in India can be seen by looking at the structural organisation of Indian villages. There are three types of village: non-Dalit, Dalit and mixed caste (which contain Dalit neighbourhoods, often located on the village outskirts). One-third of the population in the project target area belongs to the Dalit community, who are fighting for their basic rights, such as the right to education, the right to public participation, the right to use public spaces and public water sources. Sharing the water resource is traditionally considered unthinkable. Higher castes often prohibit the Dalits from using wells and sanitation facilities. The Dalits have to resort to qualitative and quantitative rationing, which leads to a range of public health issues.

The Salem project is targeting 5 villages that are home to disadvantaged castes and Dalits in the Salem district and has several components: water, sanitation, menstrual hygiene, solid waste, family farming. The installation of water supply schemes and sanitation facilities in these villages will provide inhabitants with access to hygiene, improve their daily well-being and, thus, enhance their dignity.



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Given the social system, Kynarou uses strict selection processes to identify beneficiary villages. It is vital to take India's unequal caste system into account when developing project strategy and activities, even where Kynarou's primary aim is to ensure access to water for all irrespective of caste and religion. The project should not become a source of conflict in the villages; however, many villages contain communities of different castes who refuse to share the water resources. To avoid conflict, the project looks to focus on the most cooperative villages where there is the least inter-caste rivalry. Prior to implementing its projects, Kynarou works on these selection processes to gain a better insight into caste-related social problems and areas of conflict. Discussions are held with local administrative bodies to target lower caste areas as much as possible and reach the Dalit community. Local authorities need to buy in to the project and must not be openly opposed to the Dalits.

Once the villages have been identified and selected with the help of local partners and the local authorities, Kynarou installs water and sanitation facilities (water filtration systems and sewers with wastewater settling systems), builds communal facilities for the Dalits, other low caste groups and for women in the community, and conducts large-scale awareness-raising programmes. Kynarou has developed a methodology that is specifically adapted to the target beneficiaries, their cultures and customs, and to the local environment of southern India. The awareness-raising activities encourage villagers to consider the social situation without judgment or recommendation. Set up and facilitated by the local team, who is familiar with the inhabitants' rites and customs, this awareness-raising programme is especially tailored to the problems and issues of each village. The aim is to raise inhabitants' awareness of community-based water management and ensure they recognise water to be a common good that is to be shared based on need and not on caste.

PROJECT Confluences

Africa - Action Contre la Faim (ACF)

A campaign entitled « J'ai soif de changement » (I am thirsty for change) to ensure public health policies include access to basic WASH services in healthcare facilities

The Confluences project seeks to help improve nutritional security in five African countries (Chad, Burkina Faso, Cameroon, Central African Republic, Madagascar) by improving the treatment provided to people suffering from undernutrition, developing preventive measures and proposing appropriate public policies. Following the advocacy developed by Action Contre la Faim and other international solidarity organisations, international institutions and states have adopted a normative framework to improve the multi-sector approach to achieving the SDGs by 2030. At present, this involves building local advocacy capacities to help communities call for the effective implementation of these commitments. To this end, one of the advocacy campaign's objectives is to improve the integration of basic water, sanitation and hygiene services in healthcare facilities.

After a phase that featured the adoption of the UN Decade of Action on Nutrition, the Nutrition For Growth process and, more recently, Resolution EB144.R5 «Water, sanitation and hygiene in healthcare facilities» by WHO, states have approved national programmes to improve nutrition. Following international adoption of this resolution, the aim of the Confluences project is to stimulate political change by working with local communities. Through an advocacy campaign developed by ACF and WaterAid, local advocacy should progressively take over the reins so that local communities call for the effective integration of basic WASH services in healthcare facilities. This is essential for meeting needs in the general interest.

ACF uses a multi-sector intervention strategy that includes technical components (nutrition, health, water, food security, etc.) and advocacy and communication campaigns. With the Confluences project, ACF has developed a new project culture



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based on CSO partnerships (with a dozen local CSOs). Thus, Action contre la Faim and its partners have set up coalitions to report and give practical proposals to national and international forums, and this will help give civil society «a powerful and legitimate voice» with which to claim human rights.

An advocacy tool was produced to support three of the project countries (Cameroon, Chad and Burkina Faso) with launching and rolling out this campaign. Several healthcare facilities in Cameroon and Chad now have handwashing facilities. This activity has been scaled up due to the Covid-19 pandemic.

The campaign has been a real success in Cameroon. Advocacy for access to water was carried out at a number of events, such as those held to celebrate Global Handwashing Day in 2019, and at the International Women's Day parade, where advocacy messages were displayed by the women supported by Action Contre la Faim and COSADER (a group of NGOs working on food security and rural development). Awareness-raising picture cards were provided to the Tokombéré health district (project target area).

Chad launched the WASH in Nutrition campaign on 15 October 2019 to mark Global Handwashing Day, the aim of which was to advocate for WASH interventions in healthcare facilities in order to tackle the spread of disease and reduce undernutrition. A round-table was held, which was followed by awareness-raising campaigns and the distribution of WASH kits in Therapeutic Nutritional Units with the support of the local authorities.

In Burkina Faso, our partner, the Secrétariat Permanent des ONG (SPONG - Permanent Secretariat of NGOs), attended World Water Week in Stockholm in August 2019, where they disseminated our advocacy message on integrating WASH into nutritional policy and investing in WASH for healthcare facilities to tackle malnutrition.

The development of HRBA methodological tools

NGOs and donors are adopting the approach but there is still very little in the way of HRBA training, methodologies and project management tools available for project implementers. Many of the guides available only contain explanations of

theoretical concepts or selected HRBA principles. Stakeholders are therefore required to use their initiative and develop their own tools by pooling their expertise or forging partnerships with specialist human rights organisations.

EXAMPLE N°1:

CHECKLIST, GUIDELINES ON RESPECT FOR THE HUMAN RIGHT TO WATER AND SANITATION IN DEVELOPMENT PROJECTS, DEVELOPED BY THE SPANISH AGENCY FOR INTERNATIONAL DEVELOPMENT COOPERATION⁴⁵ (extracts)

Checklist, guidelines on respect for the Human Right to Water and Sanitation in development projects, FCAS, AECID, 2017.

► NON-DISCRIMINATION, UNIVERSALITY

- If a legal framework exists that recognises the HRWS, duty-bearers and rights-holders, is the project aligned with said framework? If no such framework exists, does the project include any significant actions that are subject to normative frameworks, programme frameworks or budget frameworks, focused on guaranteeing the HRWS?
- If there is a plan at the local level that prioritises the most vulnerable groups, is the project aligned with said plan?
- Does the project include actions to promote equity in tariff payments?
- Are there guarantees that the project will not continue to increase existing inequalities between the populations of different neighbourhoods in the same municipality or between populations from different groups?

► PARTICIPATION

- If the local population is not organised or does not have the capacity to lay claim to their rights, does the project include actions to increase their impact or to coordinate with national or international social or environmental organisations that can support such processes?
- Does the project include strengthening of consensus-building spaces?
- Have control and accountability mechanisms been included to inform the beneficiary population and all stakeholders involved of progress [...] in terms of the HRWS criteria?

► ACCOUNTABILITY

- If there is political will from public entities, does the project ensure their participation and involvement in implementation of the project? If no such political will exists, does the project include actions to favour it?
- Does the project include capacity-building for the authorities responsible for WASH (procedures enabling greater equity in budget allocation, prioritised use of WASH, creation of a regulatory framework concerning management of water resources, etc.)?

Other relevant methodological resources

- Human Right 2 Water, A human right-based approach, A practical guide for the realization of the human rights to water and sanitation through programming, 2021.
- UNDP, Mainstreaming Human Rights in Development Policies and Programming: UNDP Experiences, 2012
- Wash United, WaterAid, Institute for Sustainable Futures – University of Technology Sydney, End Water Poverty, UNICEF and RWSN, in partnership with C3, Making Rights Real, 2016.
- HRBA resources portal, The Making Rights Real Approach
- Toolkit: Understanding and addressing equality, non-discrimination and inclusion in water, sanitation and hygiene (WASH) work, WaterAid, 2018.

⁴⁵ Only a few questions have been selected for illustration purposes.

EXAMPLE N°2:

CHECKLIST TO INTEGRATE THE CHILD RIGHTS-BASED APPROACH INTO THE PROJECT CYCLE

(extracts)

Directly adapted from the Checklist to Integrate the Child Rights-Based Approach into the Project Cycle developed by the Coordination Humanitaire et Développement (CHD) Groupe Enfance (2020).

► SITUATION ANALYSIS UPSTREAM OF THE PROJECT

- The rights-holders are identified according to data disaggregated by age, sex, geography and vulnerability (ethnic group, situation of disability, etc.).
- The perceptions, knowledge, capacities and expectations of rights-holders regarding their rights and their realisation are analysed and taken into account.
- Responsible actors are identified, consulted and participate in the situation analysis (What are their knowledge, capabilities, perceptions and will regarding the HRWS and their realisation? Are these actors involved in data collection? Do they also participate in the analysis of the data collected?)

► CONCEPTION AND PROJECT IMPLEMENTATION

- The institutional, legal and political environment impacting the HRWS, at local and national level, is analysed.
- Violations of the HRWS are identified and analysed. Traditional practices, social and cultural norms (both those harmful and those favourable to the HRWS) are analysed regarding the HRWS.
- The project provides for the strengthening of people's knowledge of their rights and their ability to claim them (upstream and during the project's implementation).
- The project's activities integrate the participation of the population. (Are the modalities of their participation planned according to their age and specificities (gender, vulnerability, etc.)? Are people equipped to be able to participate effectively?).
- The duty-bearers and the responsible actors are identified in the project and specific activities are carried out with them. (Are capacity-building activities on the HRWS planned for duty-bearers? Are advocacy actions with duty-bearers planned or implemented for a normative, legislative and political framework more favourable to the HRWS (at local and/or national level)?).
- Project activities target the root causes of non-respect of the HRWS, thereby reducing inequalities and combating discrimination. (Are activities, for example, spaces of dialogue with responsible actors, aiming at understanding the construction of social norms on the one hand, and combating discriminatory norms on the other?).

► MONITORING-EVALUATION / CAPITALISATION

- The monitoring and evaluation activities provide information for the project indicators in order to assess the improvement in people's access to their rights, in particular the most vulnerable and discriminated against.

Other relevant methodological resources

- UN Practitioners' Portal on Human Rights Based Approaches to Programming
- Office of the United Nations High Commissioner for Human Rights, Frequently Asked Questions on a Human Rights-based Approach to Development Cooperation, 2006.
- Realising the Human Rights to Water and Sanitation: A Handbook by the UN Special Rapporteur Catarina de Albuquerque, 2014.
- Manual on the human rights to safe drinking water and sanitation for practitioners, IWA
- Water and sanitation are human rights – so what? Implications and actions needed to put rights into practice. Results from the 27th AGUASAN workshop, 20th to 24th June 2011. This online toolkit provides a useful introduction to mainstreaming rights into programmes.

HRBA implementation challenges for NGOs

Implementing the HRBA poses institutional and organisational, as well as programmatic and financial challenges.

An overall change required in strategic and organisational positioning

In order to mainstream the HRBA into intervention approaches in a more structured manner, organisations will need to work on their strategic positioning. Mainstreaming the HRBA at programmatic level only can result in specific human rights projects or the inclusion of human rights-focused components within programmes, but these will merely be a component of actions rather than an integral part of a structuring approach. Therefore, mainstreaming the HRBA will not necessarily be systematic and will not necessarily lead to the organisation introducing specific HRBA tools.

Even if the organisation does produce operational tools for implementing the HRBA in programmes and projects (checklist, indicators, evaluation matrix, etc.), without a well-defined strategic framework and team support, these instruments will not be enough to institutionalise the approach. The opposite is also true: formulating a strategic framework only, even one that is jointly developed and shared, does not guarantee implementation of the HRBA. If the organisation has opted to adopt the HRBA, then this HRBA should permeate the entire organisation, from its strategic documents through to its programmes and its management and financial tools. This will also make it possible to build on practices for knowledge production, assess the human rights impact of interventions, and inform strategic thinking. A high level of ownership of the HRBA concept will be required, as well as changes to internal processes to make the organisation more transparent and accountable. Successfully mainstreaming the HRBA requires a combination of strategic, operational and management tools⁴⁶.

Targeting the most vulnerable

This is a commonly debated topic among sector organisations. What vulnerability factors should be considered? The people left behind within the same country may face different challenges based on their location, history, local culture and other factors, such as poverty, isolation, their legal status, their gender and their age, their disability or their health status⁴⁷.

The factor that raises the greatest questions is poverty: what does «most vulnerable» mean in situations where, based on poverty indicators, the vast majority of households are considered to be vulnerable? Where do we draw the line? The HRBA provides the response: it prompts organisations to target the most disadvantaged people. However, we first need to identify them and ensure they can be reached.

Identifying the most vulnerable people

They are often invisible due to a lack of data, as not all states have disaggregated statistical bases in place. These are essential for designing relevant policies and programmes. Development organisations often have to conduct their own surveys, develop their own methodological tools, and cross-check data held by different institutions, which can sometimes create problems of legitimacy when it comes to validating the lists of the people identified. The calculation methods also need to be taken into consideration so as to eliminate bias in the programme design: above what value is this or that person considered vulnerable or not? What limit is «acceptable»? In order to progressively realise the universal HRWS, organisations ultimately have no choice but to exclude categories of people from their actions in order to start with the most vulnerable. The challenge is to avoid perpetuating these exclusions or creating new ones (vulnerable people who were not targeted) and, at the same time, to ensure non-vulnerable people are not included in the place of vulnerable groups.

⁴⁶ French Ministry for Europe and Foreign Affairs, Expert report produced by Gret and Ciedel, How to ensure effective popular participation in development projects? An illustration through the operationalisation of the human rights-based approach, 2020.

⁴⁷ WWAP, United Nations World Water Development Report 2019 – Leaving No One Behind. Paris, UNESCO, 2019.



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Collecting data

The data collection methodology is essential to the identification process. It is important to take specific context-related criteria into account. For example, lists created by ministries based on criteria that assess rural but not urban poverty will not be relevant for a project in a peri-urban area. It is also important to include consultation with the population, policymakers, and implementing partners in order to develop an accurate understanding of the population's situation and their social, economic and political environment.

Resources for the situation analyses

All stakeholders should be involved in the situation analyses. This will require NGOs to call on sometimes new expertise, such as legal and sociological expertise, etc. (analyses of power, of claims and responsibilities, political analyses, etc.). As each situation is different, a significant amount of work has to be carried out upstream of the project design phase to ensure all stakeholders are involved. To achieve this, new financial resources will need to be secured that, under current funding mechanisms, donors are not always able to obtain prior to project implementation. This step is, however, vital for ensuring structural inequalities are not perpetuated, ensuring rights-holders claims are reflected in programmes, and for more accurately targeting the actions to be carried out with duty-bearers.

Ensuring the effective participation of people and the authorities from the programme design stage remains a challenge. This participation should take place as soon as the surveys and questionnaires are in place in order to identify the desired and achievable service types and management model, and not solely determine the number of missing facilities.

Lack of a judicial, legal and regulatory framework for the sector

Such a framework is not always in place, or it may not be clear or accessible. While overall policy instruments generally include commitments for realising the HRWS, due sometimes to a lack of political will, countries have not always established sector action plans or monitoring mechanisms, and the authorities responsible can be fragmented. This makes it all the more difficult for sector organisations to identify how to coherently fit into national dynamics, and which authorities to target with their capacity-building activities or advocacy campaigns, for instance. Long-term efforts to improve sector governance requires strong commitment and the coordination of all stakeholders, particularly for effectively defining roles and responsibilities (development stakeholders should support the state and not the other way round), and for ensuring the participation of communities, including the most vulnerable, who do not always see themselves as having the legitimacy required to assert their claims.

The HRBA's holistic approach

This requires numerous issues to be considered at the same time and involves developing partnerships. From the points listed above, it can be seen that NGOs wishing to incorporate the HRBA into their programme cycle will need to have a range of, sometimes new, skills at their disposal. Of course, each organisation has its own specific areas of expertise and a wide range of technical skills. The HRBA therefore spurs organisations into developing partnerships and working in close cooperation with each other. In order to address the specific characteristics of the most vulnerable and their environment in the most holistic way possible, certain thematic skills will also be sought through these partnerships. Due to the interdependence of rights and the SDGs, WASH sector practitioners need to look outside the «WASH world» to ensure that no one is left behind and to address as many issues and challenges as possible, particularly those relating to inclusion, gender, participation, disability, education or access to entrepreneurship.



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The limitations of current funding mechanisms

Unfortunately, NGOs are still not receiving sufficient support from institutional donors and development agencies to mainstream the HRBA. Although the HRBA now has recognised added value and is being promoted at the international level, institutional donors and development cooperation agencies are themselves in the process of integrating and learning how to implement the HRBA. As a result, donor funding mechanisms and programmatic strategies remain overly focused on a goods and services-based approach. There is still very little long-term, multi-annual funding for advocacy, structuring civil society or training public actors. For WASH, most funding continues to be allocated to infrastructure and technological innovation, which of course is essential, and there is little financing available for ensuring authorities uphold their commitments, for conducting situation analyses, or for mobilising rights-holders.

Here too a paradigm shift is required to overcome concerns about funding costly activities whose outcomes are difficult to discern over the short-term. However, it is now understood that, if we want to achieve the SDGs, we can no longer overlook the most vulnerable, and that the HRBA has the practical operational scope for addressing access to services that are currently struggling to meet solvent demand.



Recommendations to improve HRBA mainstreaming in the WASH sector

To address these challenges, Coalition Eau has established the following recommendations for development stakeholders (governments, UN agencies, donors and NGOs):

Respect HRWS obligations:

- ▶ **Development organisations** must honour their commitments under international law in order to realise the HRWS.
- ▶ **Development stakeholders** should mainstream the HRBA into their organisation's strategic positioning and into their water and sanitation policies and operational strategies.
- ▶ **Governments, UN agencies and donors** should support their partner countries with developing legal and regulatory frameworks that are compliant both with the HRBA and with HRWS principles and criteria, and further support the construction of democratic societies that enable citizen engagement.
- ▶ **Development and humanitarian aid policy and programmes**, and official development assistance funding for the water, sanitation and hygiene (WASH) sector, should target the least developed and developing countries and the most vulnerable and marginalised people.
- ▶ **Development stakeholders** need to strengthen the justiciability of the HRWS by supporting the mechanisms used to register complaints and record human rights violations, particularly those used by the UN HRWS rapporteurs and at the national level by institutions working to defend human rights.
- ▶ **Development stakeholders** are encouraged to develop new strategic partnerships to provide the most holistic response possible to HRWS principles and criteria

Improve knowledge of the HRWS and HRBA:

- ▶ **Information on progressively implementing the HRWS** should be accessible and widely disseminated, particularly by the UN HRWS rapporteurs and in JMP reporting on the achievement of SDG 6.
- ▶ **The UN HRWS rapporteurs** should provide input for discussions on implementing the HRBA in the WASH sector.
- ▶ **Development stakeholders** should take the steps required to improve their knowledge of HRWS content and of the HRBA in the WASH sector, and build their capacities for implementing the approach, particularly through training, in order to progressively reshape their intervention strategies.
- ▶ **Donors** should support civil society capacity-building to foster implementation of the HRBA within the WASH sector.
- ▶ **Development stakeholders** could develop or support the development of WASH sector-specific HRBA training modules or programmes for training centres, and training programmes on development and humanitarian action, to facilitate the paradigm shift and enable skills development.

Promote the development of operational tools and the dissemination of good HRBA practices in the WASH sector:

- ▶ **Development stakeholders** are encouraged to develop and disseminate project management tools for applying the HRBA to the WASH programme cycle (data collection, situation analysis questionnaires, indicators, quality criteria, monitoring and evaluation, etc.) for use by both head office and field staff.
- ▶ **Development stakeholders** are encouraged to develop or support the design and dissemination of knowledge management documents on the HRBA within the WASH sector in order to document good practices and key implementation principles.
- ▶ **Donors** should support the process of identifying and developing these technical, methodological and knowledge management tools on HRBA and HRBA within the WASH sector.
- ▶ **Governments, UN agencies and donors** should support their partner countries with collecting disaggregated data.

Finance and implement long-term behaviour change and capacity-building activities within development programmes

- ▶ **To enable effective implementation of the HRBA in WASH programmes, official development assistance and humanitarian aid** must be sustainable, multi-annual and useful.
- ▶ **Donors** should propose funding that covers the cost of situation analyses in order to study vulnerabilities and their root causes, power relations, and disaggregated data, and to assess claims and accountability.
- ▶ **Development stakeholders** should support and/or implement HRWS awareness-raising, capacity-building, advocacy (improving public policy and government accountability) and civil society organisation activities, either directly or via strategic partnerships.
- ▶ **Development stakeholders** are encouraged to strengthen their partnerships with civil society organisations working to defend human rights and the HRWS.

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