

The Human Right to Water and Sanitation

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Training Materials



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Access to clean water and access to sanitation are inseparably combined since both are needed for a life in dignity and the lack of one component leads to an aggravation of the other.

Introduction

Why Water and Sanitation?

Water is the basis of any form of life. It is essential for human beings, animals and our environment. Access to clean water and access to sanitation are inseparably combined since both are needed for a life in dignity and the lack of one component leads to an aggravation of the other.

Many human rights cannot be enjoyed without water, such as the right to an adequate standard of living and the right to the highest attainable standard of physical and mental health. The execution of other rights is also dependent on the right to water and sanitation.

Water is high on the international agenda since globally approximately 884 million people¹ lack access to improved water sources and over 2.6 billion people² do not have access to basic sanitation³. Furthermore, the reduction of people without access to water and sanitation is one target (7 C) of the United Nations' Millennium Development Goals (MDGs). These goals were set by world leaders in 2000 committing their nations to a new global partnership to reduce poverty.

Human Rights

1. What is a Human Right?

Human rights are universal legal guarantees protecting individuals and groups against actions (as well as omissions) which interfere with fundamental freedoms and human dignity. Some of the most important features of human rights are:

- They are internationally guaranteed;
- They are universal;
- They are legally protected;
- They protect individuals and groups (rights);
- They obligate states and state actors (duties);
- They cannot be waived/taken away;
- They are equal and non-discriminatory;
- They are interdependent and indivisible.

Human rights standards are made by states, in the case of codification texts are negotiated and agreed upon by states in various forums. Human rights are laid down either in customary law⁴ or treaty law⁵ and other types of instruments. Customary international law as well as treaty law are legally binding for states, in the case of treaties only so far as the state is a party to the respective treaty. Other types of legal instruments, such as declarations, recommendations, bodies of principles, codes of conduct and guidelines are not legally binding, but serve as guidance to states and bear a moral force.



Photo by Margarita Torres

2. Obligations, Implementation and Monitoring

States have the *obligations to respect, protect and fulfil* human rights. The obligation to respect human rights requires that states refrain from interfering directly or indirectly with the enjoyment of the rights. To *protect* rights means that states have to prevent third parties from interfering in any way with the enjoyment of rights. And the obligation to *fulfil* requires states to adopt all necessary measures directed towards the full realisation of the rights. States have to engage proactively in activities that strengthen peoples' access to and the use of resources to ensure the full enjoyment of human rights. At the individual level, while we are entitled to our human rights, we should also respect the human rights of others.

Art. 2 (1) of the International Covenant of Economic, Social and Cultural Rights (ICESCR)⁶ provides that states have the obligation of "progressive realisation" of human rights, which means that states have to take steps using all their available resources to achieve the realisation of the rights contained in the Covenant. This can vary according to time and available resources, but efforts should be constant and continuing.

The enjoyment of human rights requires the *monitoring* of their implementation by different actors on different levels. National actors can be government agencies, national human rights institutions, NGOs, the judiciary, parliament and the media. Internationally, this role can be taken up by international NGOs and the United Nations. The UN undertakes monitoring in two ways:

- "conventional" (treaty-based) monitoring exercised by treaty-based bodies⁷ mainly through analysing periodic reports submitted by state parties and by individual complaints submitted to these bodies; and
- "extra-conventional" (Charter-based) monitoring based on procedures established by the Human Rights Council through individual complaints or special mechanisms⁸, that examine the situation of human rights in specific countries or related to specific issues, e.g. to water and sanitation.

At the individual level, while we are entitled to our human rights, we should also respect the human rights of others.

3. Why Is It Important to Know Your Rights?

Since access to water and sanitation is now clearly a right and not a matter of charity it means for individuals (or also a group of individuals) to hold a claim. This claim corresponds with a duty on the other side, the state. In order to claim a right one needs to know what the right is about and what it entails. It is also important to know where the right comes from and which development it has undergone. The same knowledge is essential for monitoring human rights, which is crucial for their implementation and can only be performed by an informed and committed civil society.

In addition, a basic knowledge of the human rights framework is essential to understand how human rights work. Several principles are inherent to the human rights framework, in particular these are the principles of non-discrimination, public participation and accountability.

The Right to Water and Sanitation

1. History and Development

Several treaties contain rights that are closely linked or contain indirectly the right to water and sanitation. These are the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in Art. 14 (2) (h), the Convention on the Rights of the Child (CRC) in Art. 24 (2) (c) and the Convention on the Right of Persons with Disabilities (CRPD) in Art. 28 (2) (a)⁹.

However, the first treaty that contained the right to water and sanitation within the content of two other basic human rights, was the ICESCR of 1966¹⁰. Art. 11 (1) ICESCR guarantees "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing" which contains the right to water and sanitation. And Art. 12 (1) ICESCR provides for "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." Therefore, these two provisions have historically been quoted mostly when referring to the existence of a right to water and sanitation.

This was manifested with the provision of guidelines on the right to water as a component of Art. 11 ICESCR by the UN Committee on Economic, Social and Cultural Rights in 2002 General Comment No. 15¹¹. Article 2 of the General Comment sets out specific criteria that define the right precisely: "the human right to water entitles everyone to sufficient, safe (quality), acceptable, physically accessible and affordable water for personal and domestic uses." Originally, the stress was on the right to water. The Guidelines on the "Realization of the Right to Drinking Water and Sanitation"¹² of 2005 start using these criteria for the right to sanitation respectively.

On the regional level, the UNECE Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes of 1999 refers strongly to the existence of a right to water and sanitation. In particular the general provisions of Article 4¹³ call upon states to provide for adequate water supply and adequate sanitation facilities. Article 5¹⁴ (principles and approaches) includes some of the cross-cutting criteria that are now part of the content building body of the human right to water and sanitation.

On 1 November 2008, Catarina de Albuquerque took up her functions as the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation¹⁵. Since then the development of the human right to water and sanitation accelerated and its content was shaped more clearly. Furthermore, her work has been highlighting the



inevitable link between the right to water and the right to sanitation.

In July 2010 the right to water and sanitation got recognised by the UN General Assembly (A/RES/64/292) and in October 2010 the Human Rights Council (HRC) affirmed it (A/HRC/RES/15/9)¹⁶ so that the right is now legally binding.

The HRC resolution not only provides the legal basis for the right to water and sanitation, but also recognises that it is inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity, both codified in the ICESCR.

2. Content of the Right

General Comment No.15 still serves as a basis for defining the content and the scope of the human right to water and sanitation. The Independent Expert on Water and Sanitation further developed these criteria: 5 of which are *normative criteria (availability, accessibility, quality/safety, affordability, acceptability)*, and 5 are *cross-cutting ones (non-discrimination, participation, accountability, impact, sustainability)*.

In international law the interpretation of these criteria is still quite wide and open and varies which is reflected in the overview below. However, when looking at the cross-cutting criteria it becomes obvious that they all require proper public participation. Without the information, the inclusion and participation of the public the cross-cutting criteria cannot be met.



2.1 Normative Criteria

First, the right is characterised by **availability**, i.e. one should have access to a sufficient amount of water in a reliable and continuous way (absolute WHO minimum 7.5 litres per capita per day)¹⁷. Furthermore, a sufficient number of sanitation facilities (with associated services) should be available within, or in the immediate vicinity, of each household, health or educational institution, public institution and the workplace.

The **physical accessibility** is one of the core concepts. According to the Independent Expert on Water and Sanitation facilities for sanitation and water must be within, or in the immediate vicinity, of each household, health or educational institution, public institution and the workplace¹⁸. In some cases in the EECCA (Eastern Europe, the Caucasus and Central Asia) region, water sources are remote in more than one kilometre from the house, which leads to unsafe water storage practices. Additionally, people have to walk long ways to reach the source. This criterion calls for a water source that can be reached within less than 30 minutes of walk and closer than 1 kilometre. This is important, in particular for women, as they face particular dangers on a long way from home. For sanitation facilities this criterion has to be interpreted even stricter, since they have to be accessible easily day and night. In particular for women, the risks to the physical health should be minimal when using the toilet.

The third criterion is **safety/quality**. Water and sanitation should be hygienically and technically *safe*, i.e. there should be no threat to human health. This criterion is meant as safeguard to protect the population from the consumption of polluted water or from insanitary facilities and includes the regular maintenance and cleaning of the facilities¹⁹. It also requires taking into account the special needs of people with disabilities and children. Special requirements of women for menstrual hygiene, such as the provision for hygienic disposal of sanitary towels, tampons or other menstrual products, also have to be ensured.

The **acceptability** implies that water should be culturally and socially acceptable. Depending on the different cultures this includes privacy, separate facilities for women and men and specific hygienic requirements, including menstruation needs.

Accountability also includes the right to accessible and effective judicial or other appropriate remedies in a case of violation.

Water should also have an acceptable colour, odour and taste. Finally, water and sanitation facilities must be **affordable** for everyone. This requires that water and other related services as well as the use of sanitation facilities should match the paying ability of local people²⁰. The paying ability of people for these services should not limit their capacity to acquire other basic goods and services, such as food, housing, health and education. Furthermore, support for the poorest should be granted, e.g. by social tariffs or cross-subsidies.

2.2 Cross-cutting Criteria

The cross-cutting criteria, such as non-discrimination, participation, accountability, impact and sustainability, also have to be considered.

Non-discrimination is central to human rights. Discrimination is prohibited on grounds of race, sex, age, religion, political or other opinion, national or social origin, birth and disability²². In order to avoid discrimination most marginalised and vulnerable or socially excluded groups have to be addressed specifically, inter alia, by positive measures. In particular, this means focussing on women, children and disabled people.

Participation is also a key principle of the human rights framework and itself one cross-cutting criterion. All processes related to the planning, the design, the construction, the maintenance and the monitoring of water and sanitation services should be participatory²³. This includes the right to any information related to these issues, as well as the participation in the different decision-making processes and the consideration of such when taking decisions. It is important to include representatives of all concerned individuals, groups and communities in the participatory processes. In order to guarantee meaningful public participation training and capacity-building are essential. As already laid down in the Rio Declaration on Environment and Development (1992)²⁴ sustainable solutions are best found with the participation of all concerned citizens.

Furthermore, responsive and **accountable** institutions are required for proper implementation of the right to water and sanitation. A clear structure of responsibilities and coordination mechanisms between all different state and non-state actors in the field of water and sanitation have to be provided. Here again communities on all levels should provide access to information and should be able to participate in the decision-making processes related to the issues of water and sanitation. Furthermore, they shall be part of the monitoring and evaluation which play a significant role in securing accountability. Accountability also includes the right to accessible and effective judicial or other appropriate remedies in a case of violation.

Impact and **sustainability** are the final two criteria. Good practices in water and sanitation have to be economically, environmentally and socially sustainable and their impact must be continuous and long-lasting.

3. Examples of Good Practice

There are many examples of good practices and the Independent Expert on Water and Sanitation collected cases from all over the world²⁵.

Below there are two good practice solutions developed within WECF's network:

Water related

In many rural areas citizens depend for their drinking water on unprotected water sources and hence depend on unsafe drinking water. The World Health Organisation (WHO) initiated the Water Safety Plan (WSP) approach. The WSP focuses on the safety of all different aspects of water supply, which can vary from a large-scale supply providing water to several millions of consumers to a small-scale system, e.g. a bucket-well. The WSP is a concept to develop a process-orientated observation of the water supply with the goal to identify and eliminate all possible risks in the entire water supply system: from potential risks of water pollution in the catchment area all the way along the line to the consumers.

Since several years Women in Europe for a Common Future, WECF, in cooperation with local partners, has been observing and monitoring water pollution of small-scale water supply systems such as dug wells, in rural areas of the EECCA region. WECF's experience shows that the proof of severe anthropogenic pollution of drinking water via water tests does not automatically trigger any action by local or regional authorities to start water protection measures. To address the above-mentioned problems and aims, WECF created an educational package (WSP toolbox) for schools to develop community based WSP for local small-scale water supply systems such as dug wells, boreholes and public taps. The aim of the activities on developing WSP for small-scale water supply systems involving schools was building local capacity and strengthening and mobilising the community for improved access to safe drinking water. WECF's WSP toolkit provides schools and other stakeholders with a WSP manual containing background information about the aims of the WSP, about properties of drinking water and sources of pollution and related health risks²⁶. The toolkit includes questionnaires for collecting information from citizens, local health authorities and local authorities responsible for water sources. Further, the toolkit includes sanitary inspection forms on the current state and potential risks of (private) wells, and materials and instructions for carrying out simple water tests. WSP were carried out in 2008/9 by 8 schools in Romania. In 2009/2010 schools in Armenia, Georgia, Moldova started with developing WSP for their villages.²⁷

Sanitation related

The conditions of sanitation in rural areas of the EECCA countries often do not meet the criteria for basic hygiene and environmental protection. Although most toilets are considered as improved sanitation according to the WHO/UNICEF Joint Monitoring Programme (JMP) for Water Supply and Sanitation definition²⁸, the public health is set at risk by the commonly used pit latrines. The shallow groundwater wells that are often used for drinking water are contaminated by the pit latrines.

Since 2002, WECF and local NGO partners have implemented more than 500 individual toilets and 30 school toilets based on urine diverting dry (UDD) technology, always together with hand washing facilities, in Romania, Bulgaria, Belarus, Ukraine, Moldova, Armenia, Azerbaijan, Georgia, Kyrgyzstan, Kazakhstan, Tajikistan and Afghanistan in different projects funded by the Ministry of Foreign Affairs of the Netherlands, the German Federal Ministry for Environment, Nature Conservation and Nuclear Safety and Fondation Ensemble. The projects are implemented within a participatory approach involving all stakeholders and building capacity in the regions on hygienic issues and sustainable sanitation options such as UDD toilets.





4. What to Do with Your Right on Water and Sanitation?

Once one knows his/her rights one can make use of them. This includes different steps: firstly, awareness of human rights within the public domain is a general prerequisite of using them. Therefore, it is important to raise the awareness of human rights in general, and the right to water and sanitation in particular. This can be reached by, inter alia, initiating a campaign. Secondly, violations of the right have to be identified and the duty bearer, the state (at national, regional and local level) has to be made aware of taking on its responsibilities (monitoring).

And thirdly, the right can be claimed before different forums, the last resort is a legal case against the respective state. At national level this might be possible depending on the respective national legislation, at international level there are different mechanisms in place, no real legal complaint is yet possible to claim a violation of the right to water and sanitation. Possible international interventions are the following: Providing information about the implementation of the right to the Independent Expert on Water and Sanitation²⁹ who might be inclined to take up a country visit and report about the situation of the right in the respective country to the HRC. Furthermore, civil society has the possibility to report about the situation of the right to UN bodies via the reporting system. Countries do have to report on a regular basis to different committees of treaty-based bodies on the implementation of the commitments they have made by ratification or accession of/to specific treaties, e.g. to the Committee on the Economic, Social and Cultural Rights. At this point civil society has the opportunity to provide input on the status of the right to water and sanitation or to present its own shadow report. The individual complaint procedure is not yet open for violations of rights under the ICESCR. However, the Optional Protocol³⁰ to the ICESCR, which allows for individual communications to the Committee on the Economic, Social and Cultural Rights, has been adopted in 2008, but has not yet entered into force.

Lobbying decision-makers in order to initiate new or change old policies and laws is the main aim of advocacy whereby hoping for a long-term change in behaviour.

Awareness, Education, and Advocacy

In the beginning most practicable is awareness raising and monitoring of the right. Awareness raising on the right to water and sanitation helps to promote the visibility of the right and the knowledge about it. For the newly established human right to water and sanitation this is essential for it to come to life. Awareness-raising includes the elements of education and advocacy. A common medium to raise awareness is a campaign with the aim to achieve long-term benefits by means of changes. A campaign consists of the following key elements³¹:

- Identify priorities and researching the issues;
- Mobilising support and shaping a message;
- Informing the public (education);
- Lobbying decision-makers (advocacy).

1. Identify Priorities and Research

A first step is identifying priorities of the issue you want to raise awareness about. One needs to clarify whether the issue is indeed connected to a denial of the human right to water and sanitation. Furthermore, for a start it is advisable to focus on a specific element of the human right to water and sanitation. Not all aspects of the right can be covered when addressing the issue for the first time.

In a second step it is essential to learn more about the right one wants to raise awareness about. For the human right to water and sanitation this means in-depth research of documentary evidence, such as laws (national and international), policies, studies and reports by NGOs etc. Also personal testimonies, case studies and specific base-line studies can help to provide a good overview of the status quo of the fulfilment of the human right to water and sanitation. Data collection should be made disaggregated according to different criteria, such as gender, age and location (rural/urban)³². This can reveal certain patterns of violations of the right to water and sanitation and can help to look at solutions for specific groups of people, in particular e.g. marginalised groups, such as women, children and the poor.

2. Mobilising Support and Shaping a Message

Before starting to mobilise support one has to be clear about the scope of one's campaign: local, regional or national. In any case mobilising support includes intensive work with the local communities. Public participation is the principle that assists in identifying local needs related to the element of the right to water and sanitation one wants to raise awareness of. This requires a lot of time, but proper participation creates networks and ties which will help to gather support for the campaign and further shape the message one aims at conveying.

3. Education

Another crucial step is educating the public. This includes the transfer of knowledge by means of workshops, trainings, train-

the-trainer programmes, publications, exhibitions and by the media. Different approaches are needed according to the target groups one seeks to address, e.g. children and the youth or illiterate persons etc.

4. Advocacy

Advocacy aims at the sustainability and the impact of a campaign. Lobbying decision-makers in order to initiate new or change old policies and laws is the main aim of advocacy whereby hoping for a long-term change in behaviour. Different tactics and tools are used to do advocacy and the combination of them is helpful in order to reach one's goals. Capacity-building, building networks, legal advocacy, using the media and lobby work itself are all part of advocacy strategies that aim at lobbying decision-makers. Different international treaties and policies, such as the Protocol on Water and Health (PWH) and National Policy Dialogues can be of benefit to realise set aims.

Conclusion

The human right to water and sanitation is still new and needs interpretation as well as implementation in order to come to life. For different countries different solutions are appropriate, but a certain common standard is essential as human rights are universal. However, when taking a practical approach on the realisation of human rights many different tools and ways are available and possible based on local needs, capacities and resources.



Annexes

International Standards with Explicit Reference to Water and Sanitation

Full texts can be found under <http://www2.ohchr.org/english/law/index.htm#instruments>

A. Resolutions on the Right to Water and Sanitation

UN General Assembly Resolution of 28 July 2010 (A/RES/64/292)

....

1. Recognizes 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;
2. Calls upon States and international organizations to provide financial resources, capacity-building and technology transfer, through international assistance and cooperation, in particular to developing countries, in order to scale up efforts to provide safe, clean, accessible and affordable drinking water and sanitation for all;
3. Welcomes the decision by the Human Rights Council to request that the independent expert on human rights obligations related to access to safe drinking water and sanitation submit an annual report to the General Assembly, and encourages her to continue working on all aspects of her mandate and, in consultation with all relevant United Nations agencies, funds and programmes, to include in her report to the Assembly, at its sixty-sixth session, the principal challenges related to the realization of the human right to safe and clean drinking water and sanitation and their impact on the achievement of the Millennium Development Goals.

Human Rights Council Resolution of 6 October 2010 (A/HRC/RES/15/9)

...

1. Welcomes the work of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, including the progress in collecting good practices for her compendium,¹ and the comprehensive, transparent and inclusive consultations conducted with relevant and interested actors from all regions for her thematic reports, as well as the undertaking of country missions;
2. Recalls General Assembly resolution 64/292 of 28 July 2010, in which the Assembly recognized 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;
3. Affirms that the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity;
4. Calls upon the independent expert to continue to pursue her work regarding all aspects of her mandate, including to clarify further the content of human rights obligations, including non-discrimination obligations in relation to safe drinking water and sanitation in coordination with States, United Nations bodies and agencies, and relevant stakeholders;
5. Acknowledges with appreciation the second annual report of the independent expert and takes note with interest of her recommendations and clarifications with regard to both the human rights obligations of States and the human rights responsibilities of non-State service providers in the delivery of water and sanitation services;
6. Reaffirms that States have the primary responsibility to ensure the full realization of all human rights, and that the delegation of the delivery of safe drinking water and/or sanitation services to a third party does not exempt the State from its human rights obligations;
7. Recognizes that States, in accordance with their laws, regulations and public policies, may opt to involve non-State actors in the provision of safe drinking water and sanitation services and, regardless of the form of provision, should ensure transparency, non-discrimination and accountability;
8. Calls upon States:
 - (a) To develop appropriate tools and mechanisms, which may encompass legislation, comprehensive plans and strategies for the sector, including financial ones, to achieve progressively the full realization of human rights obligations related to access to safe drinking water and sanitation, including in currently unserved and underserved areas;
 - (b) To ensure full transparency of the planning and implementation process in the provision of safe drinking water and sanitation and the active, free and meaningful participation of the concerned local communities and relevant stakeholders therein;
 - (c) To pay particular attention to persons belonging to vulnerable and marginalized groups, including by respecting the principles of non-discrimination and gender equality;
 - (d) To integrate human rights into impact assessments throughout the process of ensuring service provision, as appropriate;
 - (e) To adopt and implement effective regulatory frameworks for all service providers in line with the human rights obligations

of States, and to allow public regulatory institutions of sufficient capacity to monitor and enforce those regulations;

- (f) To ensure effective remedies for human rights violations by putting in place accessible accountability mechanisms at the appropriate level;
9. Recalls that States should ensure that non-State service providers:
- (a) Fulfil their human rights responsibilities throughout their work processes, including by engaging proactively with the State and stakeholders to detect potential human rights abuses and find solutions to address them;
 - (b) Contribute to the provision of a regular supply of safe, acceptable, accessible and affordable drinking water and sanitation services of good quality and sufficient quantity;
 - (c) Integrate human rights into impact assessments as appropriate, in order to identify and help address human rights challenges;

B. International Bill of Human Rights

Universal Declaration of Human Rights 1948 (UDHR)

Art. 25 (1)

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR)

Art. 2 (1)

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

Art. 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:
 - (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
 - (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Art. 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

C. Core International Human Rights Instrument

Convention on the Elimination of All Forms of Discrimination Against Women 1979 (CEDAW)

Art. 14 (2)

States parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular shall ensure to women the right:

...
(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Convention on the Rights of the Child 1989 (CRC)

Art. 24

1. States parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health ...
2. States parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, (...) the provision of adequate nutritious foods and clean drinking water (...)

Convention on the Rights of Persons with Disabilities 2006 (CRPD)

Art. 28

2. States parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:
 - (a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs.

D. Regional Instruments Related to Water and Sanitation

UNECE Protocol on Water and Health 1999 (PWH)

Art. 4 General Provisions

1. The Parties shall take all appropriate measures to prevent, control and reduce water-related disease within a framework of integrated water-management systems aimed at sustainable use of water resources, ambient water quality which does not endanger human health, and protection of water ecosystems.
2. The Parties shall, in particular, take all appropriate measures for the purpose of ensuring:
 - (a) Adequate supplies of wholesome drinking water which is free from any micro-organisms, parasites and substances which, owing to their numbers or concentration, constitute a potential danger to human health. This shall include the protection of water resources which are used as sources of drinking water, treatment of water and the establishment, improvement and maintenance of collective systems;
 - (b) Adequate sanitation of a standard which sufficiently protects human health and the environment. This shall in particular be done through the establishment, improvement and maintenance of collective systems;
 - (c) Effective protection of water resources used as sources of drinking water, and their related water ecosystems, from pollution from other causes, including agriculture, industry and other discharges and emissions of hazardous substances. This shall aim at the effective reduction and elimination of discharges and emissions of substances judged to be hazardous to human health and water ecosystems;
 - (d) Sufficient safeguards for human health against water-related disease arising from the use of water for recreational purposes, from the use of water for aquaculture, from the water in which shellfish are produced or from which they are harvested, from the use of waste water for irrigation or from the use of sewage sludge in agriculture or aquaculture;
 - (e) Effective systems for monitoring situations likely to result in outbreaks or incidents of water-related disease and for responding to such outbreaks and incidents and to the risk of them.
3. Subsequent references in this Protocol to "drinking water" and "sanitation" are to drinking water and sanitation that are required to meet the requirements of paragraph 2 of this article.
4. The Parties shall base all such measures upon an assessment of any proposed measure in respect of all its implications, including the benefits, disadvantages and costs, for:
 - (a) Human health;
 - (b) Water resources; and
 - (c) Sustainable development, which takes account of the differing new impacts of any proposed measure on the different environmental mediums.
5. The Parties shall take all appropriate action to create legal, administrative and economic frameworks which are stable and enabling and within which the public, private and voluntary sectors can each make its contribution to improving water management for the purpose of preventing, controlling and reducing water-related disease.

6. The Parties shall require public authorities which are considering taking action, or approving the taking by others of action, that may have a significant impact on the environment of any waters within the scope of this Protocol to take due account of any potential impact of that action on public health.

7. [...]

8. The provisions of this Protocol shall not affect the rights of Parties to maintain, adopt or implement more stringent measures than those set down in this Protocol.

9. The provisions of this Protocol shall not affect the rights and obligations of any Party to this Protocol deriving from the Convention or any other existing international agreement, except where the requirements under this Protocol are more stringent than the corresponding requirements under the Convention or that other existing international agreement.

Art. 5 Principles and Approaches

In taking measures to implement this Protocol, the Parties shall be guided in particular by the following principles and approaches:

- (a) The precautionary principle, by virtue of which action to prevent, control or reduce water-related disease shall not be postponed on the ground that scientific research has not fully proved a causal link between the factor at which such action is aimed, on the one hand, and the potential contribution of that factor to the prevalence of water-related disease and/or transboundary impacts, on the other hand;
- (b) The polluter-pays principle, by virtue of which costs of pollution prevention, control and reduction shall be borne by the polluter;
- (c) States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction;
- (d) Water resources shall be managed so that the needs of the present generation are met without compromising the ability of future generations to meet their own needs;
- (e) Preventive action should be taken to avoid outbreaks and incidents of water-related disease and to protect water resources used as sources of drinking water because such action addresses the harm more efficiently and can be more cost-effective than remedial action;
- (f) Action to manage water resources should be taken at the lowest appropriate administrative level;
- (g) Water has social, economic and environmental values and should therefore be managed so as to realize the most acceptable and sustainable combination of those values;
- (h) Efficient use of water should be promoted through economic instruments and awareness-building;
- (i) Access to information and public participation in decision-making concerning water and health are needed, inter alia, in order to enhance the quality and the implementation of the decisions, to build public awareness of issues, to give the public the opportunity to express its concerns and to enable public authorities to take due account of such concerns. Such access and participation should be supplemented by appropriate access to judicial and administrative review of relevant decisions;
- (j) Water resources should, as far as possible, be managed in an integrated manner on the basis of catchment areas, with the aims of linking social and economic development to the protection of natural ecosystems and of relating water-resource management to regulatory measures concerning other environmental mediums. Such an integrated approach should apply across the whole of a catchment area, whether transboundary or not, including its associated coastal waters, the whole of a groundwater aquifer or the relevant parts of such a catchment area or groundwater aquifer;
- (k) Special consideration should be given to the protection of people who are particularly vulnerable to water-related disease;
- (l) Equitable access to water, adequate in terms both of quantity and of quality, should be provided for all members of the population, especially those who suffer a disadvantage or social exclusion;
- (m) As a counterpart to their rights and entitlements to water under private law and public law, natural and legal persons and institutions, whether in the public sector or the private sector, should contribute to the protection of the water environment and the conservation of water resources; and
- (n) In implementing this Protocol, due account should be given to local problems, needs and knowledge.

The Human Right to Water and Sanitation

Training Materials

Abbreviations:

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women	JMP	WHO/UNICEF Joint Monitoring Programme for Water Supply and Sanitation
CRC	Convention on the Rights of the Child	MDG	Millennium Development Goal
CRPD	Convention on the Rights of Persons with Disabilities	PWH	Protocol on Water and Health
EECCA	Eastern Europe, the Caucasus and Central Asia	UDHR	Universal Declaration of Human Rights
HRC	Human Rights Council	UNECE	United Nations Economic Commission for Europe
ICCPR	International Covenant on Civil and Political Rights	UNICEF	United Nations Children's Fund
ICESCR	International Covenant on Economic, Social and Cultural Rights	WHO	World Health Organization
		WSP	Water Safety Plans

References

- 1 WHO/UNICEF, Progress on Sanitation and Drinking-Water, 2010 Update.
- 2 Ibid.
- 3 As defined by WHO and UNICEF, *ibid.*
- 4 Customary international law develops through a general and consistent practice of states because of the belief and sense of legal obligation. [unhcr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94?Opendocument).
- 5 Treaty law as compiled in treaties, conventions and covenants, such as the ICCPR or ICESCR.
- 6 See annex.
- 7 There are nine treaty-based bodies that monitor the implementation of the nine core human rights treaties, such as the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination Against Women.
- 8 Such as the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation.
- 9 See annex.
- 10 See annex.
- 11 See here <http://www.unhcr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94?Opendocument>.
- 12 Commission on Human Rights, Guidelines on the Realization of the Right to Drinking Water and Sanitation, 2005.
- 13 See annex.
- 14 See annex.
- 15 Independent Expert on the issue of human rights obligations related to access of safe drinking water and sanitation, see at <http://www2.ohchr.org/english/issues/water/lexpert/> - further referred to as the Independent Expert on Water and Sanitation.
- 16 See annex.
- 17 WHO, Guidelines for Drinking-water Quality, Vol.1, 3 edition, 2008, p. 90 (see for full document here http://www.who.int/water_sanitation_health/dwq/gdwq3rev/en/).
- 18 Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, A/HRC/15/31, 29.6.2010, p.16 (see <http://daccess-ods.un.org/TMP/6920173.76422882.html>).
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- 20 WHO, The Right to Water, 2003.
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- 22 Statement by the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation at the 65th session of the General Assembly (A/65/254), 2010.
- 23 *Ibid.*
- 24 See: <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163>.
- 25 See here http://www2.ohchr.org/english/issues/water/lexpert/stakeholders_questionnaire.htm.
- 26 See here <http://www.wecf.de/english/publications/2008/wspmanuals-revised.ph>.
- 27 For the WSP manual see here <http://www.wecf.eu/english/publications/2008/wspmanuals-revised.php>
<http://www.wecf.eu/download/2009/July/WP-153WSPengl.DruckkomplettfrInternet.pdf>; for a case study on the results of WSP involving schools in Romania see here http://www.wecf.eu/download/2010/03/wsp_romania.pdf
- 28 For definitions of wat/san categories see <http://www.wssinfo.org/definitions-methods/watsan-categories/>.
- 29 Part of the Special Procedures of the Human Rights Council.
- 30 See here for more information <http://www2.ohchr.org/english/bodies/cescr/index.htm>.
- 31 Sayers, Richard, Principles of Awareness-raising, UNESCO, Bangkok 2006, p.21.
- 32 Fan Global, Rights to Water and Sanitation, A Handbook for Activists, 2010, p.21 and Statement by the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation at the 65th session of the General Assembly (A/65/254), 2010.



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