

A Human Rights Based Approach

A practical guide for the realisation of the human rights to water and sanitation through programming

By Human Right 2 Water





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Foreward

The inspiration for this guide was a recognised need to provide water and sanitation practitioners with practical guidance on how to implement the human rights to water and sanitation (HRWS) at different stages of the project cycle.

It seeks to provide a methodology and tools to integrate a Human Rights-Based Approach in programming to facilitate the realisation of the human rights to water and sanitation. By following a step-by-step and practical approach, this guide serves as a point of reference, a simplified set of instructions and a collection of checklists to ensure that the HRBA is being employed.

The target audience is development cooperation agencies, civil society, and non-governmental organisations; nonetheless, the guide is useful to anyone working in water, sanitation, and other interlinked sectors.

It is worth noting that the Human Rights-Based Approach (HRBA) in development programming has evolved continuously alongside other approaches such as gender mainstreaming. Each UN agency has created its own distinct guides and manuals.ⁱ There is a breadth of materials and information available on the HRBA, some of which have been highlighted here, and other complementary sources are noted in the Key References section.

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Abbreviations and Acronyms

CEDAW	The Convention on the Elimination of all Forms of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	United Nations Committee on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities
ECtHR	European Court of Human Rights
EIIP	Employment Intensive Investment Program
GANHRI	Global Alliance of National Human Rights Institutions
GC 15	General Comment 15
HRBA	Human Rights-Based Approach
HRC	Human Rights Council / Human Rights Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
IWRM	Integrated Water Resource Management
JMP	WHO/UNICEF Joint Monitoring Programme for Water, Supply Sanitation and Hygiene
LFM	Logical Framework Matrix
M&E	Monitoring and Evaluation
NGO	Non-Governmental Organisation
NHRI	National Human Rights Institutions
OHCHR	The Office of the United Nations High Commissioner for Human Rights
SDG	Sustainable Development Goals
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCR	The United Nations High Commissioner for Refugees
UNDP	United Nations Development Programme
UNDRD	UN Declaration on the Right to Development
UNSDG	UN Sustainable Development Group
UNFPA	United Nations Population Fund
UNICEF	United Nations Children’s Fund
UPR	Universal Periodic Review
WASH	Water, Sanitation and Hygiene
WHO	World Health Organization

Executive Summary

The integration of the Human Rights-based Approach (HRBA) in development activity has accelerated over the years and proven to be effective. HRBA is a common framework that seeks to further human rights by incorporating the application of human rights principles in all steps of projects or programming. At the heart of HRBA lies the aspiration to support the capacities of rights-holders to claim their rights and duty-bearers to fulfil their human rights obligations. Emphasis is placed on ensuring action to support the marginalised and vulnerable. In HRBA the human rights principles of equality and non-discrimination, participation and inclusion, access to information, accountability and sustainability are utilised to guide the entire project management cycle. These are commonly known as cross-cutting principles.

In supporting the realisation of the Human Rights to Water and Sanitation (HRWS), the HRBA cross-cutting principles are employed in conjunction with the normative criteria of the HRWS (availability, accessibility, affordability, quality, acceptability) to strengthen capacities of both rights-holders and duty-bearers and generate sustainable outcomes. This comprehensive approach is particularly important with water and sanitation as many projects tend to concentrate on quantity (availability) and quality rather than addressing all components of the HRWS, including such criteria as accessibility (particularly for persons with disabilities), acceptability (very important to preserve dignity and safety for women and girls) and affordability (making sure that any pricing allows for all people, especially the most vulnerable, to be able to afford safely managed water and sanitation).

There are four recognised stages in implementing an HRBA in programming:

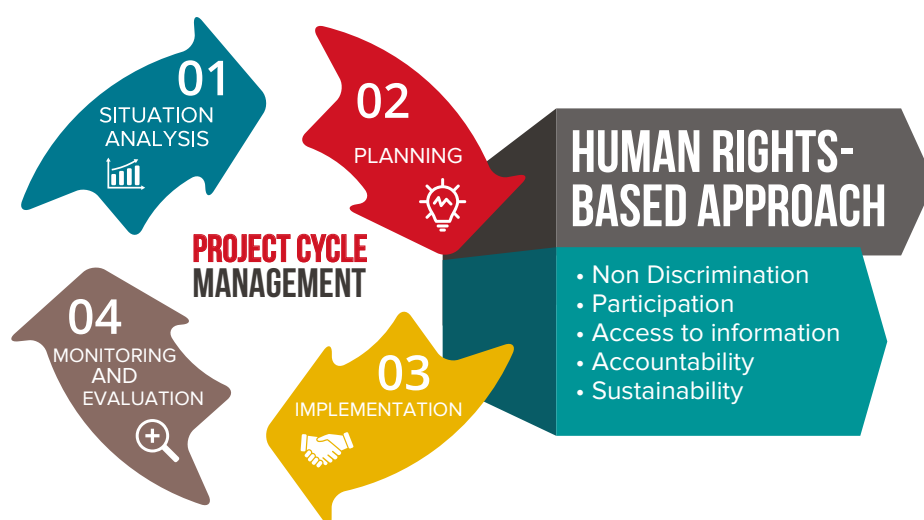


Figure 1: The four stages in project cycle management that lead to an HRBA

These four stages are described below as:



STAGE I: Situation Analysis

The first stage is **situation analysis**, which is a multi-step process in itself. This analysis seeks to identify HRWS issues and the causes which hinder their realisation in a **causality analysis**. The specific groups who are encountering obstacles to accessing safe water and adequate sanitation, rights-holders, and the persons bearing responsibility to fulfil HRWS, duty-bearers, are also identified through stakeholder mapping. In the final step of the situation analysis, a **capacity gap analysis** is undertaken to understand where capacity development is necessary for all stakeholders to support them in accelerating the realisation of HRWS.



STAGE II: Planning

Stage two is planning, where information taken from the situation analysis on the issues and causes of the lack of access are used to design and define objectives from an HRBA. Objectives should align with the country human rights commitments and recommendations made by human rights protection mechanisms. Activities are defined with elements that go beyond just providing services but also strengthening capacities, with an emphasis on intervention for the marginalised and vulnerable populations.



STAGE III: Implementation

Once objectives have been designed, implementation follows with human rights standards and principles being continuously employed; especially ensuring non-discriminatory practices, realising meaningful participation and guaranteeing accountability and transparency throughout the implementation of activities. For an HRBA project to be effectively implemented, dialogue with various stakeholders is necessary. It is important to avoid working in silos and to cooperate with other development partners or civil society organisations.



STAGE IV: Monitoring and Evaluation

Using an HRBA in projects and programmes requires the development of a monitoring and evaluation framework aligned with human rights standards and with the objective to follow-up progress made in the realisation of the rights to water and sanitation. The monitoring and evaluation phases are fundamental to guarantee the principles of sustainability and accountability and provide important decision-relevant information to professionals that seek to implement similar projects.

Section 1

The Human Rights-Based Approach
and the Human Rights to Water and
Sanitation

The Human Rights-Based Approach

Human rights & HRBA evolution

The integration of human rights into development programming has been ongoing for quite some time, although the term 'human rights-based approach' (HRBA) is a more recent development. It was in 1997, during Kofi Annan's mandate as Secretary General of the UN, that he recognised the importance of an HRBA and advocated in favour of its implementation across the UN System.

Adopting an HRBA means incorporating human rights and human rights principles into any and every working project. It goes beyond focusing on outcomes and draws attention to the entire process, implementing human rights principles in every step of the project design, planning and operations – by applying this method, the result will also have a positive effect in strengthening human rights.

As the HRBA gained traction and became a widely used approach, different attempts to define the term have emerged. For this reason, there is no single universal definition for HRBA.

The most common definition comes from the UN Common Understanding,ⁱⁱ as it serves as the foundation for organisations which then may adapt the approach to their own mandates. Adopted in 2003 by the UN Sustainable Development Group (UNSDG), the UN Common Understanding on HRBA to Development Cooperation and Programming (UN Common Understanding) sought to make sure that UN agencies, funds and programmes consistently implemented an HRBA in their programmes at a global and regional level. Most importantly, these guidelines provide practitioners with the tools necessary to operationalise an HRBA and mainstream human rights in their work.

The UN Common Understanding

1. All programmes of development co-operation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration of Human Rights,ⁱⁱⁱ and other international human rights documents.^{iv}
2. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.
3. Development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights.

Bearing in mind the guiding principles determined by the UN Common Understanding, the incorporation of HRBA represents a change in thinking, shifting from previously more common approaches, such as charity- and needs-based. HRBA focuses on building holistic processes and empowering individuals to claim their rights, while charity and needs approaches focus primarily on input and short-term solutions. The table below further explains these differences:^v

Charity Approach	Needs Approach	Rights-Based Approach
Focus on input not outcome	Focus on input not outcome	Focus on process and outcome
Emphasises increasing charity	Emphasises meeting needs	Emphasises realising rights
Recognises moral responsibility of rich towards poor	Recognise needs as valid claims	Recognise individual and group rights as legal and moral duty bearers
Individuals are seen as victims	Individuals are objects of development interventions	Individuals and groups are empowered to claim their rights
Individuals deserve assistance	Individuals deserve assistance	Individuals are entitled to assistance
Focuses on manifestation of problems	Focuses on immediate causes of problems	Focuses on structural causes and their manifestation

Table 1 Comparison of charity, needs and rights-based approaches

HRBA cross-cutting principles

Cross-Cutting principles

Every person is entitled to inalienable and fundamental human rights. To guarantee the protection of human dignity, human rights need to follow these five principles:



Water and sanitation facilities must be available to All with priority to most vulnerable

Equality and non-discrimination:

Individuals are equally entitled to their human rights without discrimination of race, colour, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status, as explained by Article 2 of the Universal Declaration of Human Rights (UDHR),^{vi} and promoted by other human rights treaty bodies, such as the Committee on the Elimination of Racial Discrimination (CERD) and the Committee on the Rights of Persons with Disabilities.^{vii}



The right to seek, receive & impart information for individuals, and duty by States to ensure

Participation and inclusion:

The right to participate in political and public life directly and indirectly, as well as in key decision-making processes, is an integral component of empowering individuals and groups. It is one of the core elements of a human rights-based approach aimed at eliminating marginalisation and discrimination. Indeed, the UN Declaration on the Right to Development (UNDRD) notably recognises that all persons are entitled to an active, free and informed participation in their contribution to and for their enjoyment of civil, economic, social, cultural and political development, through which all other human rights and fundamental freedoms can be realised.^{viii}



The right participate in decision - making processes - must be full, free and meaningful participation

Access to information:

The right to information encompasses the right to access information held by public bodies and reflects the premise that all information held by governments and governmental institutions is in principle public and can only be withheld for legitimate reasons. It is an integral component of the fundamental right of freedom of expression, as recognised by resolution 59 of the UN General Assembly (1946),^{ix} and Article 19 of the UDHR (1948). The freedom of expression encompasses the freedom 'to seek, receive and impart information and ideas through any media regardless of frontiers.'^x



States should be accountable for meeting their obligation and ensuring that non - state actors respect rights

Accountability:

This principle entitles rights-holders to institute proceedings to seek appropriate redress for the violation of their human rights before a competent domestic court, an international court, such as the European Court of Human Rights (ECtHR), or an international treaty body, such as the UN Human Rights Committee (UNHCR), in accordance with the rules and procedures provided by the law. Many international and regional treaties demand an effective remedy to be made available for individual victims of human rights violations.^{xi} A remedy involves two key components: firstly, the victim having access to the appropriate authorities to have his/her claim fairly heard and adjudicated upon and secondly, the redress or relief that he/she can receive because of instituting such a claim.



For future generations - respect the environment & ensure balance of economic social and environmental sustainability

Sustainability:

This requires us to be mindful of future generations and guarantee access to water and sanitation, while maintaining balance among economic, social, and environmental sustainability. This notion of intergenerational equity was notably enshrined in Principle 3 of the Rio Declaration,^{xii} and reiterated by the UN Committee on Economic, Social and Cultural Rights (CESCR) through its General Comment 15 (GC 15).^{xiii}

Human rights obligations of different actors including development partners

State responsibility

The human rights framework calls for a range of different actors to take responsibility for the realisation of human rights. However, governments continue to be the principal duty-bearers. State responsibility towards implementing human rights has three different obligations:

- 1. Respect:** States cannot violate human rights through law, policies, or practices. For example, a hydroelectric power plant cannot be built without first conducting an impartial impact assessment to determine that the right to water of the population is not affected.
- 2. Protect:** Governments must prevent others from violating human rights and provide accessible compensation where violations occur. This obligation can take many forms and a simple example of this could be the Responsible Business Initiative, submitted for a vote in Switzerland on 29 November 2020.^{xiv}
- 3. Fulfil:** Governments must act towards realising human rights through concrete measures that construct a supportive environment for human rights to prosper. These actions should consist of legislative, administrative, and budgetary measures. A recent example is the case of the Zapotecos people from the Oaxaca Valley in Mexico.^{xv} An outdated presidential decree that prohibited this indigenous community from using their own water resources for the last 50 years is close to being modified, which would result in the recognition of indigenous rights to administer, control and use their water resources.

Progressive realisation^{xvi}

The HRWS provides a legal framework for holding States accountable for the realisation of these rights. Progressive realisation means States have the international obligation to advance towards the goal of universal access as quickly and as effectively as possible, in accordance with available resources and complying with the framework of international cooperation and assistance.

The concept of progressive realisation takes into consideration the fact that the full implementation of all economic, social, and cultural rights cannot be accomplished in a short period of time. Nonetheless, States have immediate obligations to prevent non-discrimination and guarantee the minimum sufficient amount of safe water for personal and domestic use and to prevent proliferation of diseases.

Development cooperation agents

Development partners encompass both State and non-State actors. State development agents could include bilateral and multilateral government agencies, while non-State actors include national and international Non-Governmental Organisations (NGOs) and the private sector. In this guide we address specifically

bilateral development cooperation agencies and international and national NGOs since they should assist the State with its objectives.

Regarding bilateral cooperation agencies, human rights treaties and declarations define clear obligations for States to cooperate with and assist each other mutually. This is evident through the principle of international cooperation present in the UN Charter^{xvii} and in the International Covenant on Economic, Social and Cultural Rights (ICESCR).^{xviii}

In terms of obligations of non-State actors, the Committee on Economic, Social and Cultural Rights (CESCR), General Comment No.15 (GC 15)^{xix} states that the responsibility of non-State actors is to:

- Cooperate effectively with State parties in all matters related to the implementation of the right to water.
- Integrate human rights standards and principles in programmes and policies.
- Prioritise aid distribution and management of water and water facilities to the most vulnerable and marginalised population groups.

Benefits in programme delivery

Several benefits of using an HRBA approach in programme delivery can and have been identified:

- HRBA is founded on universal values and human rights principles, using this approach is important to develop projects with greater potential to generate sustainable outcomes.
- HRBA can change the charity discourse that sometimes surrounds development work and implement a rights-based perspective that is grounded in international law.
- One of the key benefits of HRBA is placing the individual at the centre of the process, as an active agent,^{xx} responsible for their own personal development.
- Human rights principles of participation, non-discrimination and accountability of duty-bearers and rights-holders are ingrained in this process, which aims to engage individuals and communities in improving and strengthening human rights implementation.
- HRBA addresses inequalities, which are crucial to resolve the problem in a durable way. For example, lack of water and sanitation is not exclusively a problem of service delivery but also involves understanding discriminatory patterns faced by vulnerable populations.
- Given the interdependence of human rights, dealing with one issue will have positive impacts on other rights.
- Using HRBA and, in turn, human rights law, helps to build political commitment, social mobilisation and international aid to advance causes such as human rights to water and sanitation.
- HRBA is holistic, taking into consideration civil, political, economic, social, and cultural aspects of a problem.
- HRBA encourages the creation of strategic partnerships to increase participation, in accordance with human rights principles.

These are just some of the many benefits of implementing HRBA in water and sanitation projects. However, there are also challenges that come with the commitment to applying this approach.^{xxi} One of the main obstacles is that HRBA can be very time consuming. In order to develop HRBA effectively and have a people-centred approach, a lot of time needs to be dedicated to capacity-building initiatives and to teaching affected communities about human rights to the affected community. Additionally, human rights advocates will need to provide continuing support for the communities throughout an adaptation period.

Working with a diverse group of stakeholders can also pose challenges, as HRBA encourages participation of different actors at every stage and building partnerships. Guaranteeing significant participation may entail extra costs. Moreover, participants may have different opinions about how things should be done, which delays the entire process. For these reasons it is important to have experts present, with negotiation and mediation skills to ensure that specific phases of HRBA unfold smoothly and in a timely manner.

The Human Rights to Water and Sanitation

Part of the global agenda and the Sustainable Development Goals

Although the human right to water was recognised by the UN General Assembly in 2010, 29% of the global population, 1.5 billion people, still do not have safely managed water at home, while many more (2.3 billion) lack safely managed sanitation.^{xxii} Diarrhoeal disease is the second leading cause of death among children under five.^{xxiii} Use of improved sanitation and hygiene practices are key measures to prevent such health risks. The lack of access to clean water and adequate sanitation necessarily impact other needs that are vital for a life of economic and social well-being.

2015 marked the end of the 15-year period of the Millennium Development Goals (MDGs): Eight specific development goals were adopted by world leaders in 2000 to eradicate extreme poverty, hunger and to combat issues that ensue from such conditions.^{xxiv} The Sustainable Development Goals (SDGs), the successors to the MDGs adopted in September 2015, emphasise sustainable development identifying 17 goals with 169 targets to be achieved by 2030.^{xxv} 'The Future We Want', the outcome document of the 2012 UN Conference on Sustainable Development, noted that "[t]he goals should address and incorporate in a balanced way all three dimensions (economic, social and environmental) of sustainable development and their interlinkages".^{xxvi}

The SDGs encompass a holistic framework grounded in three pillars: economic development, environmental sustainability, and social inclusion. The 2030 Agenda is differentiated from the MDGs as it is universally applicable to all countries, not just to developing countries as had been the case with the MDGs. Rooted in a pledge to "leave no one behind", the 2030 Agenda is firmly grounded in the human rights framework.

Moreover, 'Transforming Our World: The 2030 Agenda for Sustainable Development',^{xxvii} particularly affirms the SDG's connection to human rights. These assert the importance of the UDHR and other international instruments relating to human rights and international law. They call for States to maintain their responsibilities to respect, protect and promote human rights and fundamental freedoms for all. Commitment to the HRWS is also explicitly confirmed in the 2030 Agenda's vision with a dedicated goal, SDG 6, which seeks to ensure availability and sustainable management of water and sanitation for all.

A view of the principal water and sanitation access targets for SDG 6 reflects multiple HRWS criteria and principles:

Target 6.1: Achieve universal and equitable access to safe and affordable drinking water for all (non-discrimination, accessibility, availability, quality, affordability)

Target 6.2: Achieve access to adequate and equitable sanitation and hygiene for all and end open defaecation, paying special attention to the needs of women and girls and those in vulnerable situations (non-discrimination and focus on gender and vulnerable groups)

Target 6.b: Support and strengthen the participation of local communities in improving water and sanitation management (public participation)^{xxviii}

Legal basis

The development of water and sanitation access depends on political, social, economic and administrative systems, which will determine (directly or indirectly) how water resources and sanitation infrastructure will be used and managed, as well as the efficiency and development of delivery services. The way in which water governance is carried out will generate consequences within and outside the sector. The implementation of the human rights to water and sanitation is also an essential part of water governance, setting out legal obligations.

The International Bill of Human Rights is the core legal framework, from which different human rights originate. The Bill is composed of three key instruments:

- 1948 Universal Declaration of Human Rights (UDHR)^{xxix}
- 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR)^{xxx}
- 1966 International Covenant on Civil and Political Rights (ICCPR)^{xxxi}

While the UDHR was originally a non-binding instrument, it has now become part of customary international law. Moreover, the two covenants that stem from it are international treaties, monitored by the United Nations treaty body mechanisms. The HRWS belong to the group of economic, social and cultural rights, although they are not explicitly recognised in the text of any of the instruments that make up the Bill of Rights. However, water and sanitation are present as key components for the realisation of other rights, such as food, housing and health. Many countries have also incorporated these rights in their national constitutions, laws, policies and through judicial courts.^{xxxii}

The first explicit mentions of HRWS are seen in international human rights thematic treaties. For example, both The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)^{xxxiii} and The Convention on the Rights of the Child (CRC)^{xxxiv} are instruments which have been widely ratified. CEDAW calls on State Parties to ensure to women the right to sanitation and water supply and CRC requires State Parties to take appropriate measures to provide clean drinking water and to support parents and children in environmental sanitation. Various regional human rights treaties in Africa, Europe, and the Americas also have either explicit or implicit references to the HRWS.^{xxxv}

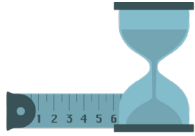
Notwithstanding the reflection of HRWS early on in international human rights law, it was only in 2010 that the United Nations General Assembly recognised the “right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights”.^{xxxvi} In the same year, the Human Rights Council reiterated the importance of these rights, approving by consensus a resolution on access to water and sanitation as legally binding human rights.^{xxxvii}

These achievements strengthened the work that had been done since 2002 by the UN Committee on Economic, Social and Cultural Rights, with the adoption of GC 15. They supported the efforts of the then Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, Catarina de Albuquerque, which has since been carried forward by Léo Heller from 2014, and by Pedro Arrojo-Agudo from the end of 2020.

The human rights to water and sanitation entitle every person to sufficient, safe, accessible, culturally acceptable and affordable water and sanitation services for personal and domestic uses. These services, in turn, must be provided in a participatory, informed, accountable, sustainable, and non-discriminatory manner. Governments should guarantee that the HRWS is substantiated in the appropriate legislation, policies, and programmes, as a fundamental step to ensure that their population is granted access to these services and will have legal remedies available in case their rights are violated.

HRWS normative content

In parallel to the HRBA cross-cutting principles mentioned in the previous subsection,^{xxxviii} the CESCR defined the human right to water in GC 15 and set out the normative content which forms the backbone of the HRWS according to the following five criteria:^{xxxix}



Water source has to be within 1,000 metres from home and collection time less than 30 min

Accessibility:

Water and sanitation services and facilities should be accessible to all and without threat to personal security. Physical accessibility is a crucial aspect in this case. Even though there are no definitive international legal standards for physical accessibility to water, the World Health Organization (WHO) has developed basic guidelines. These determined that water collection time should not exceed a 30-minute round trip and that the water source must be within one thousand metres from the household, educational institution, or workplace.^{xi} These elements of accessibility, and the following descriptions of availability and quality, have been further supported and refined through the SDG 6 target indicators and the JMP Ladder, from the WHO/UNICEF Joint Monitoring Programme for Water, Supply Sanitation and Hygiene (JMP) description of ‘Safely Managed Drinking Water’.^{xii} Needs of vulnerable groups should be taken into consideration e.g. the elderly, persons with disabilities and children.



Water cost should not exceed 3% of household income (see Affordability report SpRap)

Affordability:

States are obliged to make sure the population can afford water and sanitation services. To guarantee these services governments should consider low-cost technologies, income supplements and appropriate pricing policies including free provision for those who cannot pay. The original guideline of 3% of household income has since been updated to state that costs related to water and sanitation should not impede the ability to access other basic needs such as food or health services.^{xlii} As stated by the special rapporteur, affordability needs to be contextualised, and each State should make an assessment based on local or national challenges and situations.



Between 50 and 100 litres of water per person a day are needed to ensure most basic needs (WHO)

Availability:

Water must be available in sufficient quantities and a continuous manner for personal and domestic uses, meaning food preparation, drinking and personal and household hygiene. Water use for industry and agriculture should not be prioritised over personal and domestic uses. Each household, health, education, or other public institution should have enough sanitation facilities on the premises or within the immediate vicinity. According to the WHO, 50 to 100 litres per person per day is an adequate quantity of water to meet health requirements.^{xliii}



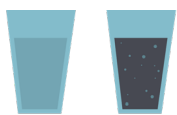
Water for personal and domestic uses must be safe and free from contaminants

Quality:

Water must be safe for consumption, hence free from micro-organisms, chemical substances or any other hazard that can cause a threat to human health. Sanitation facilities must be safe to use and effectively prevent human, animal and insect contact with human excreta. In the context of sanitation, it is essential to have access to water for hygiene purposes. Note that the definition of Safely Managed Sanitation Facilities, according to the JMP ladder also includes the safe disposal of waste matter and precludes the dumping of toilet waste in water bodies.^{xliv}

Acceptability:

It is important that water and sanitation facilities are culturally and socially acceptable. In practice, this means that depending on the cultural context of each community, sanitation facilities may require privacy and be sensitive to gender needs for safety and dignity.^{xlv} In the case of water supply, services should be provided in a way that accommodates local cultural practices, in order to be truly acceptable and accessible for all marginalised groups.



Water and sanitation must be safe, private and allow dignity

Interlinkage with other human rights

As mentioned in the previous section, the HRWS were only formally recognised by the UN General Assembly in 2010. Nonetheless it has been present in human rights law for decades, as an integral part of other fundamental human rights. Furthermore, GC 15 on the right to water explains some of these links in detail, namely the rights to food and adequate housing, and the highest attainable standard of health, which are enshrined in various international human rights instruments, notably the ICESCR.^{xvii} GC 15 also determines that the right to water should be interpreted in unison with the right to life and dignity.

Right to life (article 6 ICCPR)

The United Nations General Assembly in resolution 70/169 has affirmed that the human rights to safe drinking water and sanitation are components of the right to an adequate standard of living and essential for the full enjoyment of the right to life and all human rights.^{xviii}

Right to food (article 11(1), (2) ICESCR)

The right to food originates from the right to an adequate standard of living and the right to be free from hunger, both present in Article 11 of the ICESCR. To fulfil this commitment States should improve methods of food production, conservation, and distribution. GC 15 connects the right to water and the right to food by highlighting that access to water and water management systems must be available for marginalised farmers, including women farmers and indigenous peoples.

Right to housing (article 11 ICESCR)

GC 15 links the right to water to the right to adequate housing. For the realisation of the latter, water and sanitation services are imperative. In addition, privacy and physical security are also relevant: as women and children often must use shared latrines or use open spaces to defaecate, which leaves them particularly vulnerable to violence, harassment, and rape.

Right to health (article 12 ICESCR)

Water and sanitation management has a direct impact on health issues. Safe water and hygienic sanitation help to prevent the spread of diseases with serious health impacts, especially on children. GC 15 calls on States to prevent threats to health from unsafe and toxic water conditions. Hence, States must make sure natural water resources are not contaminated with harmful microbes or other substances. As clarified by the global pandemic of 2020, the need for safe water and soap for hand washing is critical to reduce viral contamination and save lives.

Right to education (articles 13 and 14 ICESCR)

The right to education is violated when people stop going to school because of water and sanitation issues. This is more commonly noticed among children and especially girls of menstruating age. The United Nations Children's Fund (UNICEF) has recognised the importance of schools in offering a safe, healthy environment with access to water and sanitation facilities.^{xlviii} In addition, these institutions are key in promoting essential behavioural change that contributes to the development of useful life skills fundamental to the improvement of health and hygiene. Hence, advancing the rights to water and sanitation in schools is closely connected to the promotion of children's rights to education and health.

Gender equality for women (CEDAW, General Comment 16 and CRC)

Women in some parts of the world are frequently assigned the unfair burden of collecting water, a task that is time consuming and physically challenging. To fulfil this role, girls may need to drop out of school. The HRBA highlights the importance of achieving gender equality, especially in the context of water and sanitation. Women often exceed their status as users and encompass the roles of providers, managers and protectors of water related facilities and resources. Despite these important roles, women often lack a seat at the decision-making table leaving water related decisions to be made by men.

Right to a healthy environment^{xlix}

It is increasingly accepted that human rights standards apply to the protection of the environment, and especially to the right to a safe, clean, healthy, and sustainable environment. While the UN has not formally recognised this human right yet, it is now recognised in law by more than 80 per cent of its Member States and there have been increasing calls towards its formal legal recognition at the intergovernmental level. In its 2020 report,^l the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy, and sustainable environment described some of the good practices followed by States in implementing the procedural and substantive element of the right, while stressing their direct links to the effective protection of the right to water and sanitation.

Section 2

Implementation of a Human Rights-Based Approach in Programming

Implementation of a Human Rights-Based Approach in Programming

The implementation of an HRBA in programming seems like common sense, but it is commonly over-looked as a formal process as it contains a series of seemingly obvious steps, and there can be a misconception of what it really entails. This chapter aims to take you through the four stages in a detailed road map, highlighting the importance of inclusion and non-discrimination at every stage, and clarifying what we mean by stakeholder engagement. Too often, it is assumed that the stakeholders are only the ones involved in the project funding and development, and the opportunity to include the marginalised members of the community are completely overlooked.

Hence, a true HRBA serves to provide wider benefits, realising many of the SDGs, not just the goal for water or sanitation, but also the opportunity to include improvements to people's livelihoods, access to education, a healthy environment, food, and so on.

STAGE I: Situation analysis



A situation analysis is the first step of the HRBA, and it should assess, in detail, the conditions of human rights to water and sanitation in a country or region. The process is composed of four steps (see below) that will help to map out challenges and stakeholders involved, in order to develop an effective plan of action.



The main distinction between a conventional and a human rights-based approach is in problem definition. A programme is evaluated based on the way it is defined at the outset, therefore it is a critical step in the project cycle to define the objectives using the human rights lens.

Objectives:

1. Assess conditions that hinder the realisation of human rights to water and sanitation
2. Detect root causes of the problem
3. Identify the specific groups that lack the rights to water and sanitation (rights-holders)
4. Identify the duty bearers, that have the responsibility to respect, protect and fulfil these rights
5. Undertake capacity gap analysis to comprehend the missing links that prevent people from exercising their rights and holding responsible entities accountable
6. Identify relevant potential partners and local contacts within the country to support the analysis and to facilitate solutions

The former list highlights the key objectives in situation analysis, starting with an understanding of the problem and its causes, and then identifying the rights not being met and the duty bearers responsible. Along with relevant local partners and contacts, capacity gap analysis helps to identify the problems on the ground and facilitate solutions.

When it comes to water and sanitation, many projects tend to concentrate on the quantity and quality of services but fail to systematically address all components of the human rights to water and sanitation, namely accessibility, availability, acceptability, and affordability. In addition, the cross-cutting principles of equality, non-discrimination, participation, access to information, accountability and sustainability also define the way in which the human rights to water and sanitation are provided.

The goal of a situation analysis with a human rights-based approach is to draw conclusions based on disparities in access to water and sanitation, to identify actors who do not fulfil their obligations and to find causes that hinder the realisation of HRWS and how to solve them.

Data should be gathered on inequalities amongst minority groups, indigenous populations, people living in poverty or in institutional facilities (such as refugee centres, hospitals, and prisons), those that are internally displaced and also subsets of the general population such as women, the elderly, children and the disabled. After gathering a comprehensive set of data, it is important not to ignore the causes of the inequalities, which are often absent from most analyses. A human rights-focused situation analysis examines disparities and their root causes.

Active, free and meaningful participation involving vulnerable groups and minorities is key for a human rights-based situation analysis. Public participation of different water and sanitation stakeholders is required.

The provision of safe and accessible water and sanitation are essential in the fulfilment of other human rights, such as the right to food, health, a healthy environment and to an adequate standard of living. A situation analysis with HRBA should include the consideration of this interdependence.

The principle of non-discrimination is key to ensure that the information required to formulate water and sanitation services, programmes and projects includes all people regardless of gender, age, race and ability. Data gathered should cover every demographic, socio-economic and cultural group and also be analysed separately by gender. This approach should be present throughout all phases of project development, to ensure that the interests of all people, especially women, are taken into consideration.

Lack of disaggregated data may hinder the completion of a human rights-based situation analysis, underscoring the need for improvement and strengthening in institutions and statistics. Collecting information from a wide range of sources reduces possible biases (caused by typical ways of approach based on gender and cultural norms) and provides a more inclusive picture of the human rights situation. Disaggregation of data is often disregarded in regular situation analyses and average data figures can distort the variations in local services. Thus, it is paramount to investigate which groups have little or no access to water and sanitation, beyond the most apparent differences.ⁱⁱ For example, it is important to go deeper than merely identifying the difference in access to water of rural and urban populations. There are varying degrees of disparity among vulnerable groups that need to be examined within the more obvious differences.

STEP 1: Recognise the issue



Objectives:

1. Identify State's international obligations related to human rights to water and sanitation
2. Analyse national framework on water and sanitation
3. Evaluate the level of implementation of human rights to water and sanitation in the country

This first step will focus on gathering existing and new quantitative and qualitative information about the conditions of human rights to water and sanitation of the country, at national, regional, and international levels.

- 1. Identify State's international obligations related to human rights to water and sanitation.** Human rights protection mechanisms are a good starting point, as they contain important and reliable data.^{lii} To identify the human rights obligations of a country, one must find out what human rights treaties have been ratified. States are often also part of regional treaties or agreements, which can provide for additional provisions on some rights, which only apply to the countries of the region. Once a State ratifies a treaty it becomes bound by those norms and has a legal obligation to respect, protect and fulfil the rights protected by this instrument.
- 2. Analyse national framework on water and sanitation.** State governments have the obligation to identify the roles and responsibilities of different actors in the law. It is essential to examine the legal framework for the water and sanitation sector contained in national legal and policy documents and monitoring reports.^{liii} This evaluation should be framed around the picture that has been developed through the first two stages of the analysis to verify the human rights obligations that the country has ratified, and the national framework for supporting the HRWS. Based on the legal framework that exists already, it is then relatively easy to investigate the degree to which these standards have been implemented in practice.
- 3. Evaluate the level of implementation of human rights to water and sanitation in the country.** After acknowledging the water and sanitation framework, it is important to investigate to what extent HRWS obligations are being put into practice. A firm understanding of the local situation highlights which aspects of the HRWS are not being fully implemented and which people are directly affected.

Key Questions:

1. Are the human rights to water and sanitation recognised in the national constitution and/or national legislation?
2. Are water and sanitation seen as a national priority? What are these priorities in the water and sanitation sector?
3. What are the regulations, plans, strategies and activities in the water and sanitation and related sectors? Are they consistent? Do they consider water as a cross-cutting issue?
4. Is there a national or sectoral action plan, which specifically contemplates human rights?
5. Are there any budgetary measures to ensure that the State is committed to the maximum of available resources to the realisation of the right to water and sanitation?
6. Are there adequate institutional measures, including accountability mechanisms to ensure compliance with the law?

INTERNATIONAL HUMAN RIGHTS	MECHANISMS
Human Rights Council (HRC)	The HRC is an inter-governmental body of the United Nations system, it seeks to strengthen human rights worldwide. The Council relies on different procedures, mechanisms, and frameworks to achieve its objectives, namely the Universal Periodic Review and the Special Procedures.
Universal Periodic Review (UPR)	The UPR is a peer review mechanism where States and participants of the HRC evaluate the human rights situation in each of the 193 UN Member States. The UPR happens every four and a half years and the review process produces country reports and a summary of information provided by stakeholders, like States and NGOs.
Human Rights Council's Special Procedures	The Special Procedures section of the HRC is composed of independent experts with mandates to report and advise on human rights from a thematic or country specific perspective.
Treaty Bodies	Each human rights treaty has a committee of experts responsible for monitoring its fulfilment. Through concluding observations and comments, human rights concerns are emphasised, and recommendations are made to improve progressive implementation. It is important to be aware that some rights are protected by various treaties, such as the right to life, education, and gender equality.
Universal Human Rights Index	Compiles information from the HRC, UPR and Treaty bodies, making it a useful database where information can be found by country, treaty body and key word.
National Human Rights Institutions (NHRIs)	NHRIs are State organisations that operate independently from the government, to protect and promote human rights domestically. While NHRIs may specialise in addressing different issues, their general aim is to fight against discrimination and strengthen civil, political, economic, social and cultural rights. The main duty of these institutions is to handle complaints, educate and offer recommendations on law reform.

Table 2: List of International human rights protection mechanisms

Figure 2 is a dashboard summary of the country legal mapping that can be conducted at this stage of the process showing an example from Turkey, identifying which criteria and principles of the HRWS need strengthening.

General Legislation

Member of a regional integration organisation	Yes.
State Organisation	Unitary State.
Relationship between International and National Law	Dualist.
Supreme Law	The Constitution
Independent National Human Rights Institution (NHRI)	Yes.
Name of Institution possessing regulation-making authority	No
Popular consultation as part of governing/legislative process	Not Officially.

Water Governance

Right to Water or Sanitation mentioned in Constitution	No
A water code or a law specific to water resources	Yes
National Strategy, Policy, Action Plan etc. on Water and Sanitation	Yes
Transboundary Water Resources	Yes
Priorities in the allocation of water for different uses	No

Legal Framework

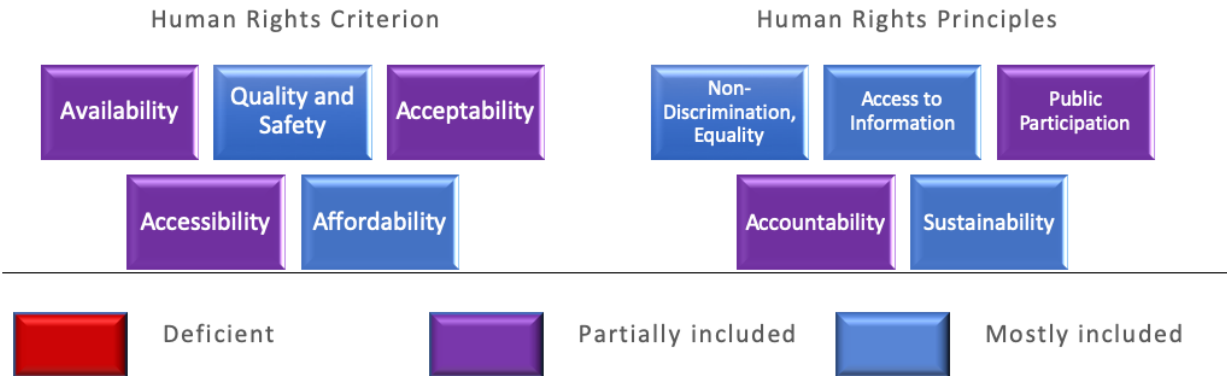


Figure 2. Summary of Country Legal Mapping for Turkey, 2018^{liv}

When conducting this evaluation, it helps to work through local partners that understand the existing challenges for water and sanitation, using this framework to gather information to validate the results and understand the challenges for compliance.

STEP 2: Stakeholder mapping



Identifying key stakeholders involves asking first who suffers the impacts of not being able to realise their rights (rights-holders), and second, who has the responsibility to respond to such hindrance and ensure these rights (duty-bearers).

Objectives:

1. Identify the rights-holders that are unable to realise the HRWS
2. Identify the duty-bearers with obligations to ensure that these people have the HRWS
3. Identify the specific vulnerable groups or individuals affected?

There are two main groups of stakeholders:

1. **Rights-holders:** In general, all human beings are rights-holders under the Universal Declaration of Human Rights.^{lv} In specific terms, rights-holders are understood as persons with recognised rights that are entitled to demand their rights and to establish the liability of the obligation-holder.
2. **Duty-bearers:** These are actors who have particular obligations or a responsibility to respect, protect, promote, and fulfil human rights and to abstain from violations of these rights.

Who are the duty-bearers?

The State is the primary legal duty-bearer.^{lvi} The duty of the State extends to all its bodies such as government, parliament, local and national authorities, the legal and the educational system, police and many more. Where there is decentralisation, local authorities represent the State and are responsible as primary duty-bearers. Where there is privatisation of service provision, the State does not exempt itself from its human rights obligations by involving non-State actors. Irrespective of the responsibilities of the latter, the State remains the primary duty-bearer for the realisation of human rights. However, non-State service providers must comply with the laws and regulations of the State in terms of a general legal obligation: they have a general responsibility to respect human rights.

While traditionally, the ultimate duty-bearer is the State, non-State actors such as individuals, civil society organisations, private corporations, development partners, international institutions, rebel groups and armed forces may also be

duty-bearers. For example, private companies are bound by labour standards and environmental obligations, and international institutions including aid donors have an obligation to promote the core overarching principles of equality and non-discrimination in their functions.

Duty-bearers will be different for each problem and an important part of the analysis is to define who they are as precisely and specifically as possible.



Figure 3: Types of stakeholders for water and sanitation

Special groups as rights-holders

The HRBA prioritises people in vulnerable situations. The figure below lists some of the vulnerable groups that are most often marginalised in society and that are recognised in international law through standards and norms represented in treaties and covenants.^{lvi}



Figure 4: Common vulnerable groups of people

The relationship between claimants and duty-bearers is often complex and links individuals to their communities. Furthermore, when considering vulnerable populations, it is important to investigate the factors that are connected to the circumstances of their marginalisation. Context is a strong indicator of the vulnerable groups concerned, and these can be linked to one or more of the following four factors: economic, social and cultural, geographical and gender.

Economic factors: limited financial resources should not entail lack of fundamental goods and services. An enabling environment must be provided by the State for each individual to fulfil his/her basic needs, notwithstanding his/her income.

Social and cultural factors: disabilities, ethnic status and age are some of the factors which cause individuals to be marginalised and in a vulnerable situation. Difficulties in accessing water and sanitation may be a result of technical and/or moral impediments. Therefore, they need to be analysed in HRBA. People in institutional facilities (prisons, refugee camps, hospitals and schools) are susceptible to vulnerability as they often depend on the State for accessing water and sanitation.

Gender factors: It is important to consider if women and girls are given the same rights as men in the community. For instance, women have specific health needs that constitute their basic human rights. In some countries women and girls are excluded from different areas of society, and this will inevitably violate a range of their human rights. Regarding water and sanitation, the gender factor is particularly pertinent in the household responsibility given to women concerning water and the subsequent impact on their economic and social development.

Geographical factors: Rural populations are usually located in remote areas with little or no access to essential goods and services. Often, even if infrastructure is available, prices for basic goods and services are generally higher than in urban areas, including water and sanitation costs. Population living in peri-urban areas also may face problems of access to safe drinking water and are marginalised due to lack of data about their condition.

The relationship between claimants and duty-bearers is often complex and links individuals to their communities. Information collected should, to the extent possible, provide specific details about the disparities among vulnerable or marginalised populations, and should not reflect average values to describe the degree of access to water and sanitation as this can hide variations in provision of services. Diagram 5 lists the types of populations that can be at risk, based on these four factors.

Key Questions:

1. Have all the affected vulnerable and marginalised groups been identified and mapped?
2. How will these groups be engaged in the project?
3. Has a stakeholder plan for ongoing engagement been developed?
4. How will you check that these stakeholders are truly involved in the decision-making process, and what checks have been put in place?
5. Have you set up an independent body that will check that participation is meaningful?

LIST OF THE POPULATIONS AT RISK

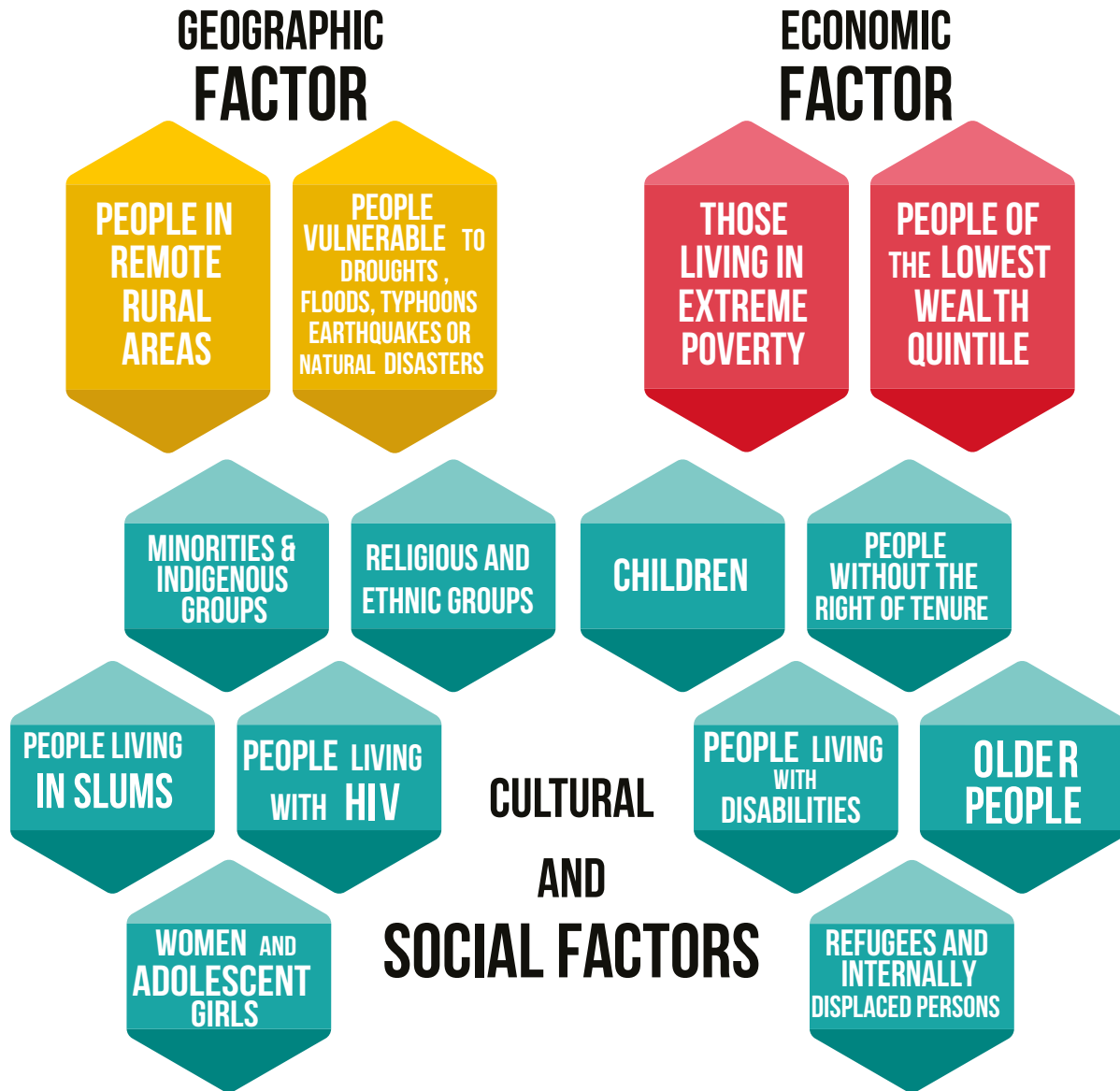


Figure 5: At-risk populations grouped by factors

Case Study 1: Rehabilitation of irrigation facilities affected by earthquake^{lvii}

Bohol, Philippines

In response to severe earthquake damage caused to an irrigation system supplying water to four villages in Bohol in 2014, the EIP/ILO set up a response team to plan and manage the rehabilitation works. The community was empowered by a fully participative consultation process that involved all the relevant stakeholders, resulting in solutions that could be supported by the affected communities.

Importantly, the process identified all the stakeholders involved, including the farmer's cooperatives, affected households and women. The meaningful participation resulted in a multi-stakeholder planning team which included farming communities alongside the technical staff from the government unit; immediate measures to generate income for the women; and the training and involvement of the local community in the workforce to plan and manage the rehabilitation works themselves.



Photo: Rice fields near Bohol Philippines

STEP 3: Causality analysis



Objectives:

1. Identify immediate, underlying and root causes, that trigger the violation or non-realisation of the rights to water and sanitation.
2. Have a holistic and integrated understanding of the water related issues, which includes social, cultural, and economic issues, as well as accessibility and discrimination concerns.

A causal analysis from an HRBA aims at identifying all the causes - immediate, underlying, and structural - that trigger the violation or non-realisation of the rights to water and sanitation. The human rights-based analysis should seek a holistic understanding of the identified water-related problems having an adverse impact on rights fulfilment including social, cultural, and economic issues and issues of discrimination, exclusion, and inaccessibility.

Root causes

In examining root causes, the analysis looks beyond immediate causes and problems and towards underlying factors that shape people's lives such as policies, laws, norms, practices, and knowledge.

CAUSES	Immediate causes: Determine the direct action, inaction, event responsible for the existing issue.
	Underlying causes: Consequences of policies, laws and availability of resources. These issues may take longer periods to be resolved, due to their complexity.
	Root causes: Conditions which are deeply set into societal structures and behaviour. These are likely to require long-term commitments to be resolved.

Table 3: Types of causes

As illustrated in figure 6, the underlying causes are often deeply complex and intertwined with long term discriminatory practices that can limit people’s access to primary services. Working from an HRBA, a holistic and integrated approach is key to understanding the situation. When assessing the different causes, it is important to consider the interplay of factors, as well as the links and relationships between multiple causes that affect a particular situation and prevent the realisation of rights. At this stage, it is especially useful to consider the national and regional contexts.

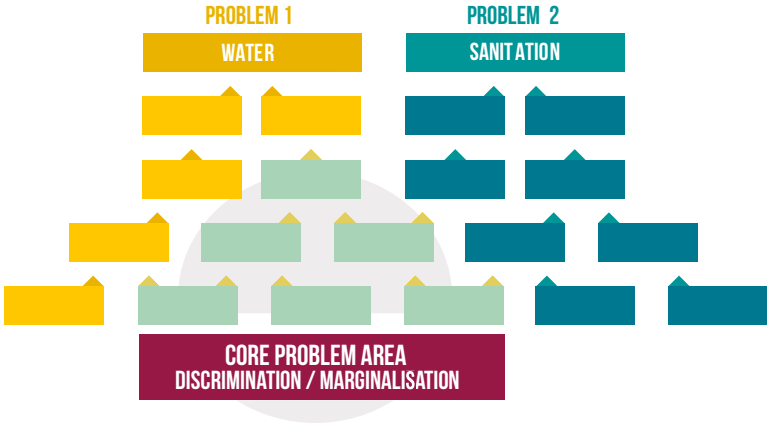


Figure 6: Causal problems are often deep rooted

Potential sources of information could include resources from the following sources:

- NGO Reports
- National Action Plans for water and sanitation services
- Government Institutions
- National Human Rights Institutions
- Water and Sanitation Service providers
- Civil Society Organisations
- Research Institutes and Academia

EXAMPLE 1: AGRICULTURE

Farmers in rural areas are affected by drought and cannot sustain their livelihoods.

Immediate cause: during low rainfall water supply is redirected to a hydro-dam.

Underlying cause: electricity generation is prioritised over subsistence of small scale farmers.

Root cause: the government does not make significant investments to guarantee the livelihood of farmers.

THE ROOT CAUSE OF POVERTY OFTEN INVOLVES LACK OF ACCESS TO RESOURCES DUE TO DISCRIMINATION

EXAMPLE 2: SLUMS

People living in slums cannot afford fundamental goods and services, resulting in the violation of their basic human rights.

Immediate cause: there is no infrastructure in slums to deliver services like water, sanitation and electricity.

Underlying cause: the government does not provide water and electricity supply services to the slum population.

Root cause: the government does not prioritise improving living conditions of low income population, hence rights violations persist.

Figure 7: Examples of causal analysis

STEP 4: Capacity gap analysis



The next step, after having explored the causes that trigger the violation or non-realisation of the rights to water and sanitation, is to examine the extent to which the stakeholders involved in the issue have the capacity to fulfil their roles as either duty-bearers or rights-holders.

The capacity gap analysis should be carried out alongside the process of identifying stakeholders. After identifying the rights-holders and the duty-bearers, it is crucial to analyse the areas where capacity enhancement is required to improve the realisation of fundamental human rights.

Key Questions:

1. What is lacking to realise the rights to water and sanitation?
2. Does the current legal system effectively protect human rights?
3. Are there complaint mechanisms in place to deal with human rights violations, with a system of redress?
4. Do individuals and groups feel empowered to speak out about human rights violations?
5. What capacity development is needed to help eliminate the causes identified by the problem?

According to the United Nations Population Fund (UNFPA), capacity is the “ability to effectively perform functions for setting and achieving objectives and identifying and solving problems. In development terms, capacity is the sum of all factors that enable individuals, communities, institutions, organisations or governments to adequately perform their respective roles and responsibilities.”^{lix}

From the HRBA, the following three components are essential for developing capacities:

1. **Authority:** This refers to the legitimacy of an action, when individuals or groups feel or know that they can take action. Laws, formal and informal norms and rules, tradition and culture largely determine what is or is not permissible. Accordingly, national laws and policies must be harmonised with international human rights treaty commitments and must identify specific duties.
2. **Responsibility / motivation / commitment / leadership:** This refers to the characteristics that duty-bearers should recognise about their roles in order to carry out their obligations. Information, education, and communication strategies help to promote a sense of responsibility for realising human rights. Ensuring a pluralistic and free media, a vibrant civil society, effective oversight mechanisms and access to remedies (judicial, administrative, and political) for violations are equally vital.
3. **Access to and control over resources:** 'Capacity' must therefore also include the human (skills, knowledge, time, commitment, etc.), economic and organisational resources influencing whether a rights-holder or duty-bearer can take action. For example, women living in the most extreme poverty may be unable to claim their rights as individuals and lack the capacity to be able to organise.

To assess the capacity of rights-holders under the HRBA, the following components need to be taken into account:

1. Do they have rights recognised by law?
2. Are they aware of their rights?
3. Do they know how and where to claim them?
4. What are their assets and capabilities?
5. How are they organised?
6. How can they use and strengthen these capacities to obtain maximum empowerment?

For an assessment of the capacity of duty-bearers, important considerations include:

1. What are their obligations in relation to the concrete problem?
2. Are they aware of their obligations? Do they recognise them?
3. Are they complying with their obligations? If not, why? What is their position regarding the problem?
4. What are their resources?
5. Are they interacting with rights-holders?

CHECKPOINT 1

Situation Analysis Checklist			YES/NO
General	1	Have you identified the problem based on Human Rights?	
	2	Have you analysed the problem by defining the most vulnerable groups and the root causes?	
	3	Does the analysis define the stakeholders in terms of rights-holders and duty-bearers?	
The Most Vulnerable	4	Does the analysis take the most vulnerable groups as the point of departure?	
The Root Causes	5	Has the analysis looked beyond immediate causes and problems, and towards underlying factors that shape people's lives (such as policies, laws, norms, practices, and knowledge)?	
Rights-Holders and Duty-bearers	6	Has the analysis identified rights-holders and duty-bearers and their capacities as specifically as possible?	
Participation	7	Are stakeholders included in the drafting of the analysis and consulted on its conclusions and recommendations?	
	8	Will the results of the situation analysis be made public?	
Development Partner	9	Are policies and strategies of the development partners consistent with the outcome of the situation analysis?	
	10	Has the development partner allocated enough resources to guarantee that the analysis really reflects the opinions of women and vulnerable groups?	

STAGE II: Planning



Once the situation analysis has been finalised and with the information resulting from it, the planning stage of the project may begin from an HRBA perspective. The intervention should explicitly aim at improving the HRWS by targeting the root causes of the lack of access to water and sanitation and building the capacities of both rights-holders and duty-bearers.

Objectives:

1. Define objectives and predicted results
2. Design activities to realise the planned objectives
3. Define ways to measure the project outcomes from a human rights perspective
4. Identify possible risks related to the project goal

Planning with an HRBA:

Planning with an HRBA encompasses a variety of differentiating features. Initially, it should include a thorough analysis of causes, roles, and capacity gaps (as outlined in Stage 1).

It should consider all the dimensions of the right (availability, quality, acceptability, affordability, non-discrimination, access to information, participation, accountability, sustainability), and not only the quantity of water or number of services provided.

It should express the project objectives in human rights terms. In other words, the objectives should seek to realise outcomes that support the realisation of human rights, and not only the narrow outcomes associated directly with the activity itself. For instance, a hydrogeneration operation should seek to improve the lives of the community in a broader sense that includes cultural, social, environmental, and economic values. It should therefore go beyond services, to strengthen capacities in the local community.

Specifically, it should address the needs of the most vulnerable, and focus on people and groups that are disadvantaged. Through engagement of all types of stakeholders, the process should ensure meaningful participation throughout all stages of development: from planning, to implementation, and sustainably through the long-term outcomes.

KEY QUESTIONS:

1. What are the short, medium, and long-term objectives of the programme or project based on the gaps identified in the situation analysis?
2. How will objectives be met through activities based on human rights?
3. How will progress and compliance with human rights be measured?

Overview / Key points

There are stark differences between the objectives of programmes that aim to provide water or sanitation services without consideration of human rights, and those that aim to improve the realisation of HRWS. The expected outcomes, or targets, of non-HRBA programs often display some of the following shortcomings:

- Partiality
- Short-term oriented
- Do not reflect the priorities voiced by vulnerable or marginalised groups
- Do not tackle root causes, including any policy and legislative changes needed
- Failure to empower individuals and groups to claim their rights
- Do not relate to the capacities of those responsible for the implementation of the HRWS
- Are not made public

The following table outlines the considerations that should be considered when designing an HRBA planning schedule:

HRBA KEY ELEMENTS	WHAT SHOULD BE CONSIDERED
Realising human rights – in this case, especially the rights to water and sanitation.	<ul style="list-style-type: none"> • Review all strategies and programmes to ensure that the focus lies on rights, rather than needs • Ensure that the Situation Analysis includes an investigation of structural causes that prevent the realisation of HRWS
Human Rights Standards and Principles guide the whole process. For HRWS, specific standards related to those rights (i.e. the normative content of the HRWS) must be considered.	<ul style="list-style-type: none"> • Verify that human rights standards and principles are considered from the initial stage and throughout the process (identification, design, implementation, monitoring and evaluation) • Construct indicators that allow for this verification • Focus on processes, not only on results
Focus on strengthening capacities of rights-holders and duty-bearers.	<ul style="list-style-type: none"> • Pay special attention to vulnerable groups in need of empowerment • Prioritise women, ethnic and religious minorities – especially those living in poverty • Devote efforts to achieve gender disaggregated data • Advocacy activities become vital from a HRBA

Table 4: Key elements to consider in planning

Several human rights-based tools and processes have been developed and used to facilitate the application of human rights to goal setting. In this guide we will illustrate how to integrate an HRBA into the Logical Framework Approach, as it is an analytical and management tool which is widely used by multilateral and bi-lateral aid agencies, international NGOs and by partner governments.

The Logical Framework Matrix

The Logical Framework Matrix (LFM) is a tool for effective planning and implementation of development projects. It provides clear, concise, and systematic information about a project through a framework which includes goals, objectives, results, activities, and indicators. The LFM helps in presenting the relationship between them, leading to the achievement of the expected outcomes. The logical framework also helps during the monitoring and evaluation phase, as it can be used to examine the progress of a project and co-relate the activities carried out and results achieved.

The table below presents a template example of the LFM, with the various components it contains, including their interpretation from a HRBA:

ELEMENTS OF THE LFM	MEANING	CONSIDERATIONS FROM THE HRBA
General Objectives	Goals have been achieved and the rights to water and sanitation realised.	Long-term positive and sustainable changes in relation to the realisation of the rights to water and sanitation.
Specific Objectives	Short and medium-term objectives for: <ul style="list-style-type: none"> • Changes in human conditions or institutions • Effects of an intervention 	Capacity building, in addition to positive changes in the implementation of standards and principles of the HRWS.
Results	Changes or immediate effects resulting from activities.	Actions must contribute to closing the capacity gap of rights-holders and duty-bearers to guarantee the rights to water and sanitation.
Activities	Actions by which inputs are mobilised to produce results.	Activities should be focussed on: <ul style="list-style-type: none"> • Process and inclusivity • Promoting the rights to water and sanitation for both rights-holders and duty-bearers.

Table 5: Example of a Logical Framework Matrix (LFM)*

All elements of the project must be directly related to the human rights to water and sanitation and its corresponding standards and principles. It is essential to consider the relevant vulnerable groups and encourage participation throughout the whole development process.

The Identification Process

Following this framework, the planning process encompasses the identification of:

- Objectives
- Results
- Activities
- Indicators

Characteristics of a human rights-based planning are identified below with respect to objectives, results and activities. Indicators will be further addressed in the Monitoring & Evaluation sections.

STEP 1: Define objectives and results

Integrating human rights into the objectives and results of the project has implications for the content and formulation process:

- The objective of a development programme or project is to realise specific human rights, in this case the human rights to water and sanitation, especially for those who do not have access to it.
- The national human rights framework (and how it has integrated international human rights law) influences the formulation and adoption of development goals.
- In accordance with the principle of non-discrimination, the programme or project objectives must first prioritise groups who do not have access before improving the conditions of those already served. Once all have basic access, they should work to progressively improve equitable access for all.
- Objectives and results are formulated in terms of their impact on the respect, protection, promotion and realisation of the HRWS of the target population.
- Objectives and results are formulated in terms of the normative content of the HRWS (availability, quality, acceptability, accessibility, affordability) and of the human rights cross-cutting principles (non-discrimination, access to information, participation, accountability, sustainability).
- Objectives and results are defined following a consultation process with the rights-holders and duty-bearers in order to understand the local situation.

Objective setting

Generally, at the design stage of the project there is an objective already identified for the purpose of the project. In some instances, it will be clearly linked to solving a human rights issue (for example, human rights-based tariff setting). In other cases, it is less obvious (such as wastewater management in industry), so a secondary objective setting within the scope of the HRBA will be useful. Thus, information from the situation analysis is beneficial to set the activities to realise the objectives in relation to the rights (violated or at risk of being violated) and stakeholders (particularly the marginalised and vulnerable) as noted from the situation analysis.

Objectives built on the situation analysis and priorities identified by relevant stakeholders, especially the most marginalised and vulnerable people.

Key stakeholders, especially most marginalised and vulnerable people, should be involved in a consultation process to complete the situation analysis and establish priorities. Figure 8 below highlights the potential benefits of using the situational analysis to assist in planning. In this example, by understanding the root and underlying cause of the issue, it then becomes relatively straightforward to identify the objectives. Instead of a project that is targeted at short term solutions to the problem, an HRBA can foster changes in behaviour and capture the essential steps in a national action plan that will integrate long term improvements in access to these human rights and be a more sustainable solution.

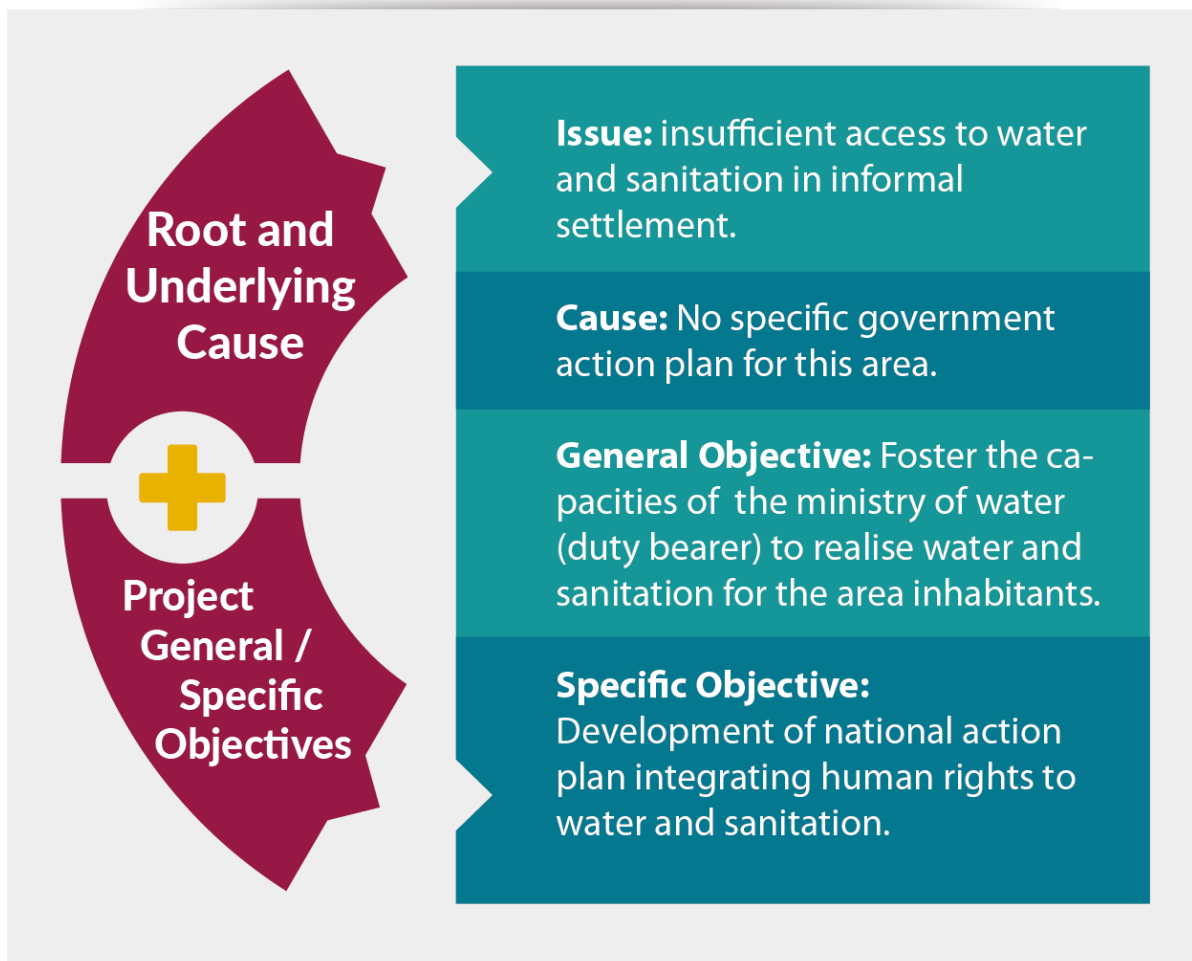


Figure 8: Example of the issue, cause, and objectives process

Case Study 2: The Integrated Rural Accessibility Planning tool

Panama

Integrating a community-empowered, joint UN-agency planning programme in Panama, prioritising the needs of marginalised groups, has resulted in continuous and equitable access to safe drinking water and sanitation facilities for nearly 6000 people in nine indigenous communities. The Integrated Rural Accessibility Planning (IRAP), an EIIP tool from ILO, was used to determine the access needs of rural people through a participatory approach and to assist planning agencies to improve access to basic services for households. Following a process of ethnographic studies and consultations with indigenous groups, the planning process provided policy support and guidelines for implementing water and sanitation services that give priority to the needs of marginalised groups. As a result of this programme, several new facilities were built, including a water quality monitoring programme and four new social enterprises to promote women and youth entrepreneurship.



Photo: Indigenous women in Panama

Align objectives with the country human rights commitments

International human rights obligations constitute a mutually agreed, universal normative framework supported not only by political guarantees, but also by the force of legal obligations to which donors and recipient States are committed through mutual accountability.

The Human Rights protection mechanisms, including recommendations of human rights treaty bodies, can provide relevant information when defining the objectives of our intervention. As an example, the figure below presents the recommendations of the Committee on the Elimination of Discrimination Against Women, the body of independent experts that monitors implementation of the CEDAW. Through their interventions, development cooperation professionals will seek to support the State in meeting these recommendations.

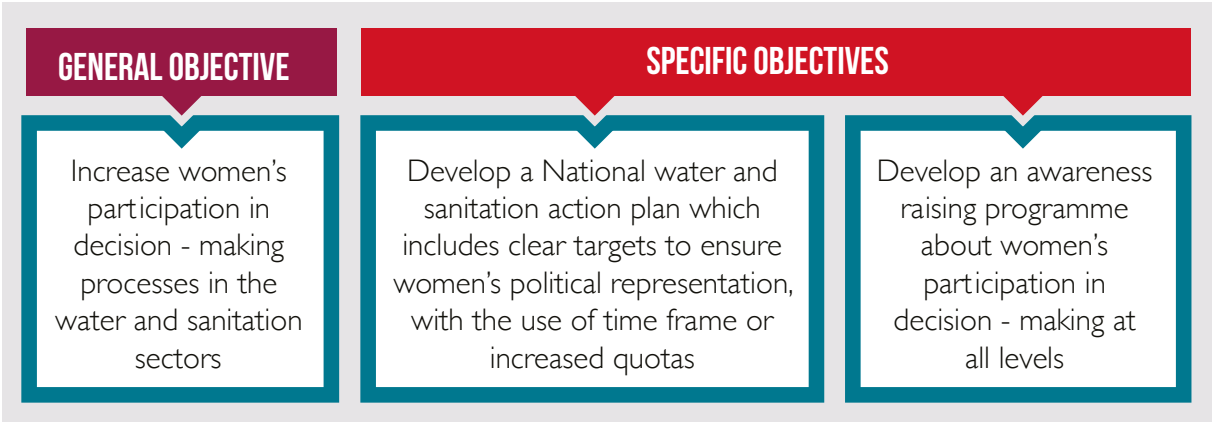


Figure 9: Examples of general and specific objectives

Objectives align with the host State's priorities and other donors' intervention strategies

The Paris principle of alignment on aid effectiveness requires that development partners coordinate with the host State for the development of their activities and align with the national development agenda.^{lxi} In practice, the national poverty reduction strategy, national water and sanitation strategy and the integrated water resources management plan do not always integrate human rights standards and principles. There may be a human rights plan of action, but often with few references to water and sanitation. This makes it even more important to reassess the complementarity and coherence between aid effectiveness and human rights principles, and that donors harmonise their intervention using the human rights framework.

Figure 10 summarises the content of human rights and aid effectiveness principles as human rights- based objectives:

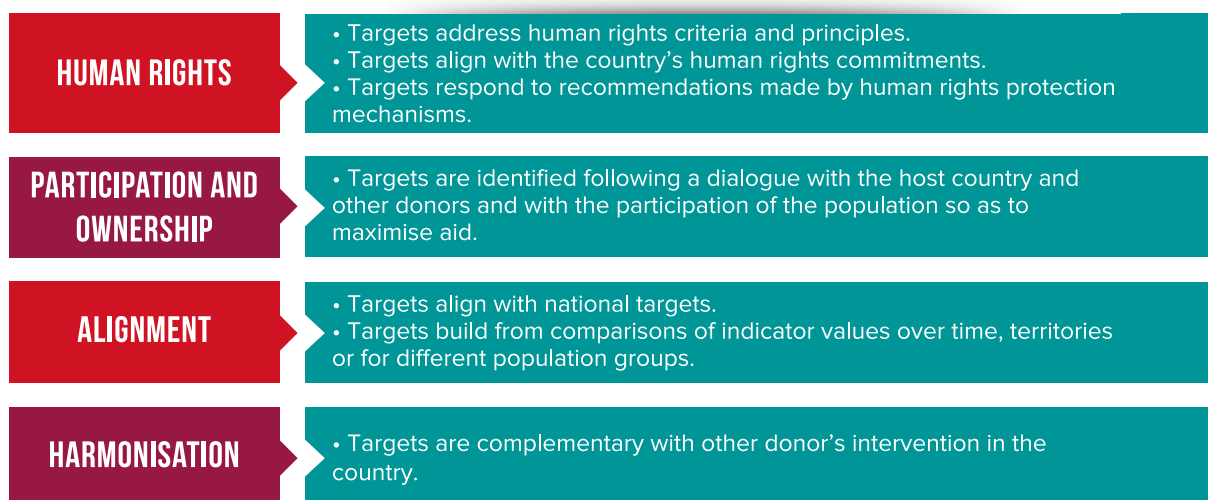


Figure 10: Developing objectives along human rights and aid effectiveness principles

Focus Objectives on Progressive Realisation

Objectives with an HRBA comply with the principle of non-discrimination and progressive realisation, and first target people who are under or unserved with water and sanitation and provide a minimum service to all, before increasing the level of access. In addition to the level of access, the HRBA focuses on the promotion and protection of the human rights to water and sanitation in its different components (availability, quality, acceptability, accessibility, affordability, non-discrimination, access to information, participation, accountability and sustainability).

In the checkpoint section at the end of this section there is a list of questions to facilitate the incorporation of all dimensions and principles of the human right to water and sanitation in the planning process.

GENERAL OBJECTIVE WITHOUT HRBA	SPECIFIC OBJECTIVES WITHOUT HRBA
Decrease the number of people without access to water and sanitation in rural areas in Kenya	<ul style="list-style-type: none"> • Achieve a regulatory framework for water supply and sanitation in Kenya • Improve water supply and sanitation services in Kenya
GENERAL OBJECTIVE WITH HRBA	SPECIFIC OBJECTIVES WITH HRBA
Contribute to the realisation of the human rights to water and sanitation in rural areas in Kenya, with priority attention to the most vulnerable populations	<ul style="list-style-type: none"> • Improve management, organisation and participation capacities of rights-holders and duty-bearers to guarantee the HRWS • Provide water and sanitation services incorporating HRWS components, such as availability, quality, accessibility, and affordability, giving priority to the most vulnerable populations

Table 6: Comparing objectives with and without an HRBA

STEP 2: Define activities

Activities with an HRBA go beyond providing services and are orientated towards strengthening capacities. This usually means that human rights-based programmes and projects include and give additional emphasis to activities such as:

- Awareness raising about human rights, for both rights-holders and duty-bearers
- Training on how to implement human rights for duty-bearers
- Advocacy, to influence change beyond a specific project, for broader reforms at the legal political and institutional levels

Capacity building represents an important difference between HRBA programmes and other kinds of programmes and contributes to the realisation of the rights to water and sanitation driving sustainable change. Duty-bearers and rights-holders should be trained, for example, in developing regulatory frameworks at national and local levels, developing plans and strategies, and developing budgets to contribute to the realisation of the human rights to water and sanitation.

As an example, to carry out a participatory process to develop municipal water and sanitation policies, the following activities can be planned:

- Regular town hall meetings with community participation.
- Policy making based on human rights training for representatives of different sectors of civil society and especially the most vulnerable groups.
- Meeting of all stakeholders to assess the needs and priorities of the community.
- Creation of a monitoring committee with the representatives mentioned above.
- The table below presents HRBA activities, which include the indications that have been presented throughout this Planning Chapter.

TYPE OF ACTIVITY	EXAMPLE OF ACTIVITY
Awareness-raising	<ul style="list-style-type: none"> • Support national educational programme on water, sanitation and hygiene at school, creating information material • Media campaigns. • School campaigns to promote hygiene and sustainable use of water.
Training	<ul style="list-style-type: none"> • Human rights and HRWS training for different stakeholders, such as municipalities, National Human Rights Institutions, civil society, community water boards. • Technical training, including the design of latrines. • Training on accountability.
Advocacy	<ul style="list-style-type: none"> • Promote measures to incorporate the HRWS in the Legal and Policy Framework. • Develop an appropriate institutional framework. • Support decentralisation processes to meet the Human Rights to Water and Sanitation. • Support the creation of national solidarity mechanisms for water and sanitation financing.
Monitoring	<ul style="list-style-type: none"> • Follow-up funding mechanisms. • Human rights-based budget analysis. • Citizens card/citizens action initiative (services' evaluation). • Audit of water and sanitation facilities.
Accountability	<ul style="list-style-type: none"> • Support for setting up complaint mechanisms • Creation of a help desk/legal advice mechanism

Table 7: Examples of HRBA activities

CHECKPOINT 2

Planning Analysis Checklist			YES/NO
General	1	Is the intervention designed according to the priorities derived from the situation analysis?	
	2	Do the targets align with national targets?	
	3	Do the targets align with the country's human rights commitments and the recommendations of human rights monitoring mechanisms?	
	4	Are the objectives and activities defined in human rights terms?	
The Most Vulnerable	5	Do the objectives result in improving the human rights situation of vulnerable groups?	
The Root Causes	6	Does the strategy address the root causes, including policy and legislative changes, which were prioritised in the situation analysis?	
	7	Has the analysis identified rights-holders and duty-bearers and their capacities as specifically as possible?	
Rights-Holders and Duty-bearers	8	Has the programme identified what activities are needed to close the most important capacity gaps?	
	9	Will these activities allow rights-holders to claim their rights?	
	10	Will these activities allow duty-bearers to strengthen their ability to respect, protect and fulfil human rights?	
Participation	11	Has the participation of the most vulnerable populations been considered in this phase of the project?	
	12	Does the intervention reflect the different needs and priorities of both men and women?	
	13	Does the programme actively seek to facilitate the empowerment of rights-holders and duty-bearers through awareness-raising, capacity building, organisational and institutional development, and support advocacy?	

Planning Analysis Checklist		YES/NO	
Development Partner	14	Has the participation of the most vulnerable populations been considered in this phase of the project?	
	15	Does the programme actively seek to facilitate the empowerment of rights-holders and duty-bearers through awareness-raising, capacity building, organisational and institutional development, and support advocacy?	
	16	Have the targets been developed with the participation of the addressed population and the national public authorities?	
	17	Has the development partner allocated enough resources to guarantee that the strategy really aims at empowering women and vulnerable groups?	

STAGE III: Implementation



This section provides guidelines to ensure that programmes or projects contribute to further the HRWS, and that human rights principles and standards are consistently being respected throughout the implementation process.

Objectives:

1. Ensuring non-discriminatory practices
2. Realising meaningful participation
3. Accountability and transparency

NON-
DISCRIMINATORY
PRACTICES

MEANINGFUL
PARTICIPATION

ACCOUNTABILITY
& TRANSPARENCY

Key points about human rights-based implementation

The HRBA highlights multisectoral problem-solving and collaboration because of the interdependence, indivisibility, and interrelatedness of human rights. For an HRBA project to be effectively implemented, discussions must occur with a multitude of actors.

Dialogue with partners and relevant stakeholders

During implementation, it must be assured that relevant partners and local stakeholders have been clearly identified through step 1, including representatives of vulnerable and marginalised populations, and that they actively participate in the different steps of the project. It is also important to provide adequate communication and information strategies.

Incorporating human rights principles and criteria

Human rights principles, the transversal and procedural attributes of the HRWS,^{lxii} are essential characteristics of a high-quality process. For instance, for the process to be participatory, the participation of all relevant stakeholders at project meetings must be ensured, even if it may be difficult to ensure that some 'hard to-reach' groups can participate. Participation and access to information contribute to ensuring that cultural preferences are respected for water (for example, smell, taste, and odour), but also in relation to sanitation so that the type of sanitation facilities, their safety, location, and accessibility, can cater for differences in gender, ability, culture, and age. In order to be accountable, the process and the results must

be transparent and accessible to all the different actors. This means, for instance, sharing information on how rights-holders and duty-bearers are selected, with a gender balance and focusing on the most marginalised people. It also requires that information sharing should be enabled for differences in communication, taking local languages, reading ability and connectivity into account.

Pitfalls in current intervention practices can occur if the programme focus is on activities rather than process, resulting in unsustainable short-term outcomes. Sometimes activities take place “in silos”, disconnected from one another and without an integrated vision of activities in related sectors. For instance, education, water, and health activities are closely interrelated for the realisation of rights to water, sanitation and health, and are often managed by different ministries, authorities, departments, or organisations.

STEP 1: Ensuring non-discriminatory practices



Inequalities can inadvertently be introduced during the implementation stage. For instance, power inequalities may result in some stakeholders having a disproportionate share of programme benefits, due to their greater access to information and training, and influence in decision-making, salaries, or other resources. It is important to be aware and ensure that any intervention does not reproduce or aggravate such existing inequalities.

In the implementation phase, the principle of non-discrimination involves a series of concrete measures to ensure that all people are being fully considered and are able to participate on an equal footing.

For example:

- When minorities are represented, translation of information in their respective languages must be ensured and be available in formats other than writing such as posters, videos, or discussions in person.
- Measures must be taken to ensure that cultural or religious differences are taken into account, especially with respect to design criteria.
- Facilitators must identify power inequalities amongst participants arising during the implementation of the programme and take the necessary measures to intervene.
- The role of women in water management needs to be emphasised and women need to be represented in a way that allows them to contribute fully and without prejudice. Women have needs and priorities that are specific to their gender and are often the leaders in the household for water management and hygiene education.
- Safety measures are identified while accessing water and sanitation facilities. That is particularly true regarding women (aggression prevention), children, disabled and the elderly, whose views must be considered to assess their needs and expectations.

Case Study 3: Water and jobs for Kesra^{ixiii}

Tunisia

An EIIP/ILO irrigation project in the small, rural town of Kesra (160km from Tunis) demonstrates how the involvement of community women in development can help to stimulate a declining economy and create gainful employment. This consultation resulted in the planting of fig trees alongside improved irrigation installations, leading to more productive harvests and fruit production. Previously not an abundant product, this expansion encouraged locals to process fruit, providing a new source of income, most notably for unemployed women. Thanks to the adoption of local technology in this gender-inclusive manner, the project was able to become sustainable and the training and livelihood support created an environment for gainful employment.



Photo: Women in Kesra working on fruit production

STEP 2: Realising meaningful participation



Participation must be active, free, and meaningful. It must go beyond mere information-sharing and superficial consultation, and involve people in decision-making, providing real opportunities to influence the planning process. The organisation of a truly participatory process is challenging. Different mechanisms and approaches are required, including consultation with various stakeholders, public meetings, and hearings as well as the opportunity to submit written comments and feedback.

Groups that should have opportunities to participate include civil society organisations, community-based organisations, national human rights institutions, academia and research institutions, the private sector and, above all, the communities and people concerned themselves, with a special emphasis on facilitating the participation of women and people in vulnerable situations. Meetings should reach out to people at all levels of society, taking into account constraints that might prevent them from attending. Efforts should be taken to ensure that participation is not only for a few well-established non-governmental organisations or local elites.

Organisation suggestions to encourage participation include:

- Locate meetings close to where people live, or work, in all regions of the country
- Hold meetings during hours when people are available, or maybe at several different times
- Use local languages and methods of sharing information for people that cannot write or do not have internet connections
- Organise parent and child friendly meetings
- Integrate meetings with existing organisations where people are already members as platforms for meetings and other forms of communication
- Share information about the project; provide training on project management and implementation; and build partnerships with communities

Case Study 4: How water user participation pays off ^{lxii}

India

West Bengal and Tamil Nadu are renowned for being drought prone regions of India. In an effort to mitigate the worst effects of the droughts, EIP/ILO funded the development of several labour- intensive infrastructure facilities, including water services, soil conservation and watershed rehabilitation. The aim was to foster local participation in the use of available local resources. Crucially, the operation and maintenance responsibilities were relegated to the communities, and water users were encouraged to participate in the implementation and management of the schemes. Such community maintenance groups were able to improve water efficiency and reduce wastage, and the farmer groups were able to distribute the water more equitably, as they gained knowledge and influence on efficient irrigation.



Photo: Village pond in West Bengal

STEP 3: Accountability and transparency



For the rights to water and sanitation to be realised, service providers, authorities and public officials must be accountable to users. The same principle applies to development practitioners.

Main implications of the accountability & transparency principle:

Accountability requires keeping people informed. Information about the project must be made publicly available to all and especially to the local population and local authorities. This includes devising sound indicators for assessing progress and making results available based on the impact of the project.

Any damage caused during the development of the project must provide access to remedies. Development partners are liable in the country for any harm that might be caused during the implementation of the project. This requires that the population can access reliable, affordable, and effective judicial and administrative complaints mechanisms that allow individuals to air and satisfactorily redress their grievances. Victims of violations are entitled to adequate reparation including restitution, compensation, satisfaction and/or guarantees of non-repetition.

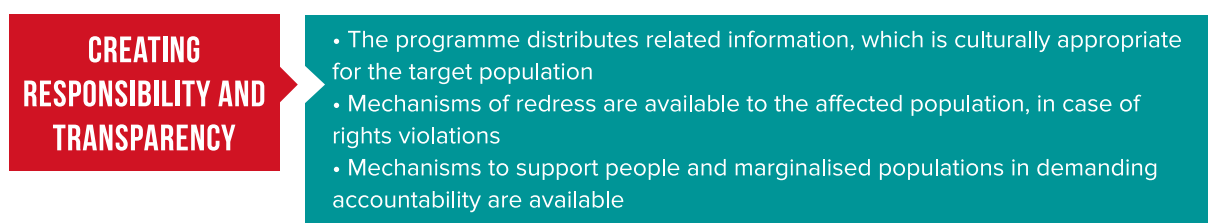


Figure 11: Creating responsibility and transparency

CHECKPOINT 3

Implementation Checklist			YES/NO
General	1	Has it been ensured that the implementation phase will contribute to promoting the right to water and sanitation?	
	2	Does the programme contribute to achieving a minimum level of service in the different categories of the right for the entire population?	
	3	Is it possible that implementation is discriminatory in any of the phases or stages?	
	4	If so, in what way is discrimination exercised? In what context? By whom?	
	5	Does the capacity building of stakeholders ensure that the programme is implemented with cultural sensitivity, gender equity and based on human rights?	
The Most Vulnerable	6	Does the programme ensure that the most marginalised populations effectively benefit from its implementation?	
	7	Within each “disadvantaged group”, some people are more marginalised than others. Is adequate representation of the entire group guaranteed within the programme or intervention?	
	8	Are marginalised groups adequately organised to be able to participate?	
	9	Are their capacities to participate being developed?	
	10	Has the support they need been taken into account?	
	11	Do they have access to reliable information?	
	12	Do they have freely chosen representatives with whom to work?	
Structural Causes	13	Does the programme address structural causes, including political and legislative changes, which were prioritised in the analysis?	
	14	Does the programme contribute to bringing about changes for right holders in terms of empowerment and inclusion?	

Implementation Checklist			YES/NO
Rights-Holders and Duty-bearers	15	Does the programme contribute to bringing about changes for obligation holders in terms of responsibility, interest and responsiveness?	
	16	Does the programme work to establish and strengthen mechanisms through which rights-holders and duty-bearers are connected in practice?	
	17	Does the implementation of the programme promote the implementation of gender equality and empowerment of women?	
Participation	18	Has consideration been given to activities that encourage public participation in the implementation of the programme or intervention?	
	19	Has the participation of marginalised groups been facilitated, especially in the implementation of the programme or intervention?	
Development Cooperation Agents	20	Is the transparency of the decision-making process maintained in the programme?	
	21	Is information disseminated throughout the implementation phase?	
	22	In case of alleged violations of human rights, are there any mechanisms of redress available to the affected population?	
	23	Is it clear who can be held accountable for the implementation phase of the programme?	

STAGE IV: Monitoring and evaluation



The development of a Monitoring and Evaluation framework (M&E) that is aligned with human rights standards provides a way to determine progress. Fundamental to the principles of sustainability and accountability, this monitoring framework provides the information necessary to track success factors and performance and allow for replication in other similar projects.

Monitoring provides a basis for regular evaluation of progress on State commitments and of the joint stakeholder agreements on the mutually beneficial utilisation of catchment waters.

Monitoring also provides inputs for the next planning cycle by enabling the identification of gaps or shortfalls between policy and implementation.

Data can be aggregated to show improvements over time. In the hypothetical case demonstrated in this diagram, the improvement in the rights to food, water for domestic use and water for indigenous peoples has been at the expense of environmental health. You can see how this kind of mapping can highlight the areas of concern and the vulnerable groups that are being overlooked.

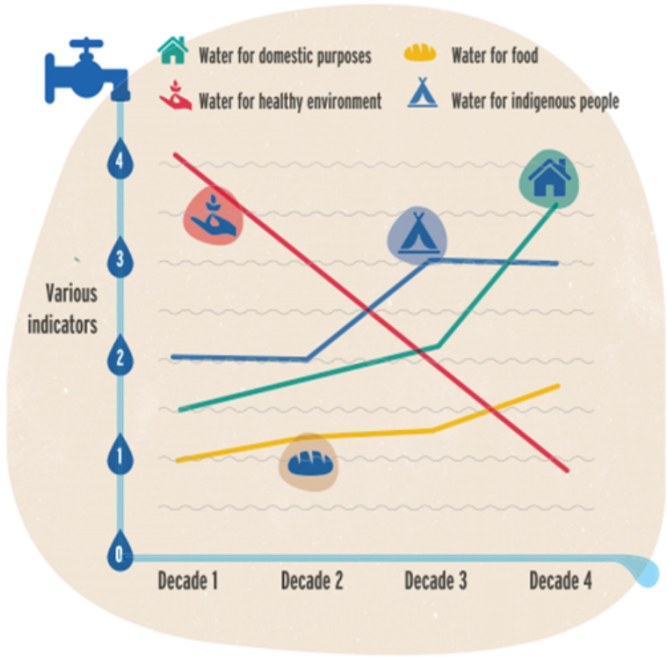


Figure 12: Monitoring of human rights indicators over time^{lv}

From a human rights-based approach, indicators should be based on international human rights instruments and standards, reflecting cross-cutting human rights principles. Indicators can be used to assess the extent to which the programme includes the commitment to human rights standards and principles in general, and to the HRWS in particular. These indicators should focus both on the normative content^{lxvi} and the cross-cutting principles.^{lxvii}

The specificity of human rights-based indicators lies in the fact that they highlight not only the outcomes, but also structural changes and processes adopted during the activities. Therefore, we must ensure that project processes, including the process of M&E itself, are conducted according to all the principles of the HRBA, including non-discrimination and participation.

The OHCHR measures the human rights commitments of States (structural indicators), their efforts undertaken to achieve them (process indicators) and the results obtained through them (outcome indicators).^{lxviii} The same approach can be taken at the programmatic level.

Disaggregation of data for indicators is critically important to capture the rights of individuals or groups in more vulnerable or marginalised situations.^{lxix} It is therefore recommended to collect data in a way that is disaggregated by gender, geographic area, income, and other relevant social, cultural and economic factors that can lead to discrimination.

When the goal is to realise the HRWS, the chief objective of monitoring is to assess the extent to which the programme has contributed to this outcome. The M&E phase of an HRBA programme can show the following advantages:

- Focus on process, rather than giving importance to results
- Ability to measure changes in government's commitments, efforts and performance
- Capture the extent to which communities have been empowered to claim their rights

STEP 1: Designing a monitoring process that integrates human rights principles

Defining M&E methodology is a key factor for measuring success and ensuring sustainable results. The application of an HRBA focusses on progressive realisation of the attainment of project objectives. The M&E process needs to respect human rights principles when defining who is involved, what to measure and how it is measured.

Taking public participation as an example, the M&E process needs to define indicators that assess the degree to which relevant stakeholders, including rights-holders and duty-bearers, are represented in the participation process. It especially should include groups of greater vulnerability, women and local community representatives, and monitor their participation over time.

Diverse Monitoring Team

The M&E process must underscore the importance of human rights and gender equality starting from the selection of the team that will carry out these tasks. Working with a multidisciplinary team is often the ideal method for facing the complexities involved in the evaluation of an intervention.

The United Nations Evaluation Group (UNEG)^{xxx} recommends that, as far as possible, both women and men, local and/or international evaluators should be included in the monitoring team, and it should include the following attributes and capacities:

- Evaluation knowledge and experience (quantitative and qualitative methods)
- Content/sectoral knowledge and experience
- Commitment to gender equality and knowledge and experience in evaluating gender equality (GE) interventions
- Commitment to human rights and knowledge and experience in evaluating human rights (HR) interventions
- Understanding and application of UN mandates on HR & GE
- Experience in and knowledge of participatory approaches and methods
- Research and relational skills, including cultural competence
- Knowledge of regional/country/local context and language

The most common evaluation tools include surveys, peer evaluation, consumer/client feedback, field trips, research on participative action and self-evaluations. The HRBA fosters the participation of concerned groups, including those that are most vulnerable, gathers different points of view and grasps the qualitative and empowering elements of the project processes. Also, the follow-up and evaluation reports must be accessible to the public as a way of being accountable for the activities carried out.

Table 8 presents the necessary conditions to integrate human rights principles in the monitoring process.

KEY ELEMENTS OF AN APPROPRIATE EVALUATION METHODOLOGY FOR AN HRBA	
Non- Discrimination	<p>Inclusion of the most vulnerable: Identify and include those most likely to have their rights violated in the data gathering and analysis process. Explore alternatives to address the participation barriers these groups may face.</p> <p>Disaggregation: Data gathering instruments and methods are developed such that human rights and gender equality related data can be disaggregated.</p>
Access to information	Information on the project and monitoring reports are accessible by all with language and means of communication taken into consideration.
Participation	<p>Indicators are identified and data collected with the participation of relevant multi-stakeholders.</p> <p>The full range of stakeholder groups are interviewed to avoid biases including, for example, gender bias, distance bias (favouring the more accessible), class bias and power bias.</p>
Accountability	<p>Adequate sample: If the amount of information reviewed/data collected is too limited, the findings may be questioned.</p> <p>If budget concerns or time constraints limit the number of respondents, or if the number in some categories is very small (for example, only a few people can spare the time to speak with evaluators) the findings need to be validated by a larger group, or through triangulation.</p> <p>The sampling strategy also needs to address the inclusion of women and men in diverse stakeholder groups.</p> <p>Triangulation: Wherever possible, data should come from more than one source. For example, if rights-holders report increased success in negotiating their needs or representing their interests, this may be confirmed through records of decisions, or asking duty-bearers if they have noticed any changes in the negotiation process with rights-holders. If women report increased income, they can be asked how they have used the income and this may be confirmed by observation.</p> <p>Adverse impact: In case of negative human rights impact as a result of the project, a complaint mechanism with accompanying remedies exists</p>
Sustainability	Evaluation of the process is shared with the local communities and lessons learnt are developed jointly.

Table 8: Key elements of an appropriate evaluation methodology

Case Study 5: Roma settlements^{ixxi}

Slovenia

Over the years, the Slovenian Ombudsman has been very active in advocating for access to infrastructure services in Roma settlements. Monitoring visits have been carried out to affected locations and the issue has been continuously addressed in the Ombudsman's annual reports and other communications with authorities. The Ombudsman also cooperated with international monitoring bodies, including the Council of Europe Commissioner for Human Rights, the European Commission against Racism and Intolerance and the Committee on the Elimination of Racial Discrimination, who also urged the Slovenian government to act in this area.



Photo: Challenges of Roma villages during COVID-19

STEP 2: Defining HRBA indicators to measure processes and outcomes

Indicators

The most common type of indicators that are used to monitor programmes and projects are performance indicators. These can be distinguished from human rights compliance indicators, which are developed to monitor human rights. Comparison of the two allows a better understanding of the peculiarity and added-value of working with human rights-based indicators.

Both performance and human rights indicators apply a logical chain and cause-and-effect approach. They differ however in their purpose, use and interpretation:

- Performance indicators allow the verification of changes produced by development intervention relative to what was planned.
- Human rights compliance indicators capture the extent to which human rights standards are being met and are yielding outcomes that can be associated with improved enjoyment of human rights.

Performance indicators are in line with the Logical Framework Approach, as employed widely by multi-lateral donor organisations for measuring project success. The main reference or sources for the identification of these indicators are the expected results of the development programme. These results follow vertical logic, that is of cause and effect, which is reflected in the different categories of indicators generally applied, which are:

- **Input indicators** (in relation to activities): relate to the financial, human, material, technological and information resources used for the development intervention. They take into account the process of intervention.
- **Output indicators** (in relation to specific objectives): measure products and services that result from the completion of the activities within a development intervention
- **Outcome indicators** (in relation to general objectives): the intended or achieved short or medium-term effects of an intervention's outputs, generally requiring the collective efforts of other stakeholders. They measure changes in development conditions, which occur between the completion of outputs and the achievement of impact
- **Impact indicators** (in relation to the goal of the programme or project): measure positive or negative long-term effects on identifiable population groups produced by a development intervention, directly or indirectly, intended or unintended

Human rights compliance indicators are intended to evaluate the fulfilment of human rights and they measure:

1. Commitment (structural indicators)
 2. Efforts (procedural indicators)
 3. Results (outcome indicators) of States in the realisation of human rights
- **Structural indicators** help in capturing the acceptance, intent and commitment of the State to undertake measures in keeping with its human rights obligations. For example, international human rights treaties ratified by the State.
 - **Process indicators** help in assessing a State's efforts, through its implementation of policy measures and programmes of action, to transform its human rights commitments into the desired results. For instance, coverage of targeted population groups, or human rights complaints received, and the proportion redressed.
 - **Outcome indicators** help in assessing the results of a State's efforts in furthering the enjoyment of human rights. For example, reported cases of miscarriage of justice and proportion of victims who received compensation within a reasonable time.

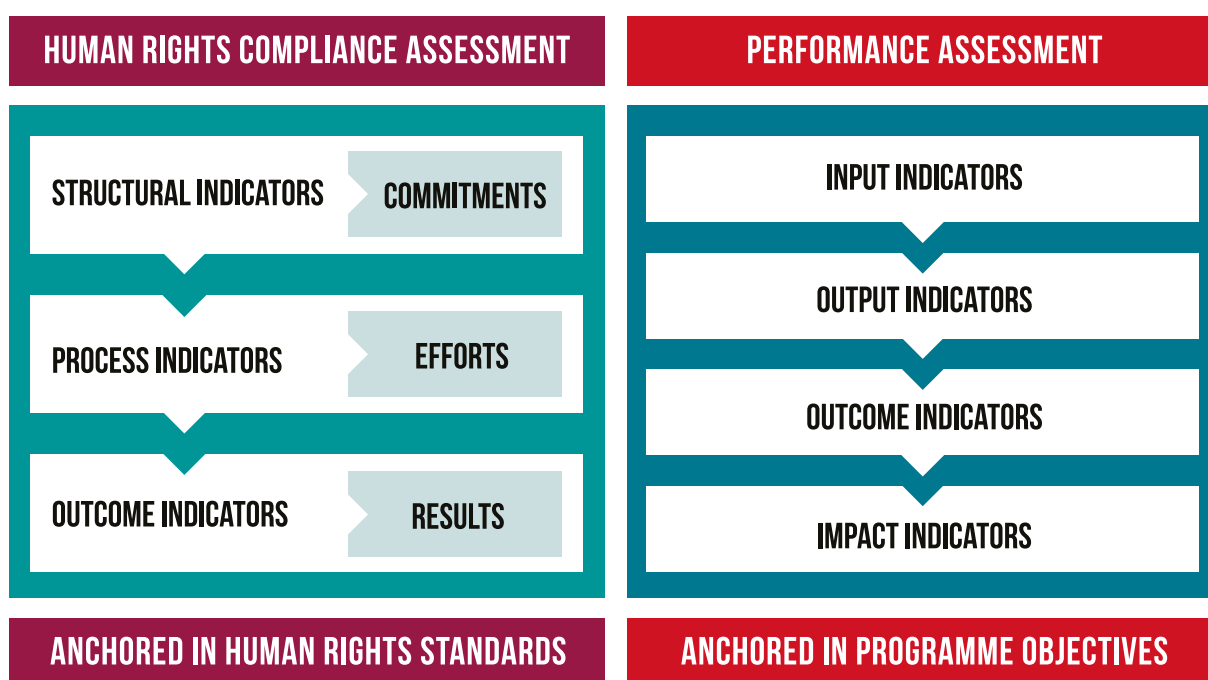


Figure 13: Comparing human rights and performance assessments

A comparison of the two approaches is shown in Figure 13, where it is demonstrated how the different sets of indicators result in outcomes that are either rooted in human rights standards, or the programme objectives. The method of evaluating the success of the programme is therefore defined by the type of indicators that are monitored, and the outcomes are likely to be very different. Outcomes that support the realisation of the SDG goals, and not only the programme objectives, are more likely to be successful if human rights compliance indicators are integrated into the M&E phase.

JMP^{lxxii}, GLAAS^{lxxiii} and GEMI^{lxxiv} are international monitoring frameworks that have been developed to support the realisation of SDG 6, as illustrated in Figure 14. These frameworks capture the global target indicators that States can measure and track to assess progress towards SDG 6 and they can be used to compare countries against a standard. JMP monitors the progress made on SDG 6.1 and 6.2, while GLAAS looks at the enabling environment and governance (SDG 6.a and 6.b), and GEMI focusses on the more environmental aspects that relate to SDG 6.3, 6.4, 6.5 and 6.6.

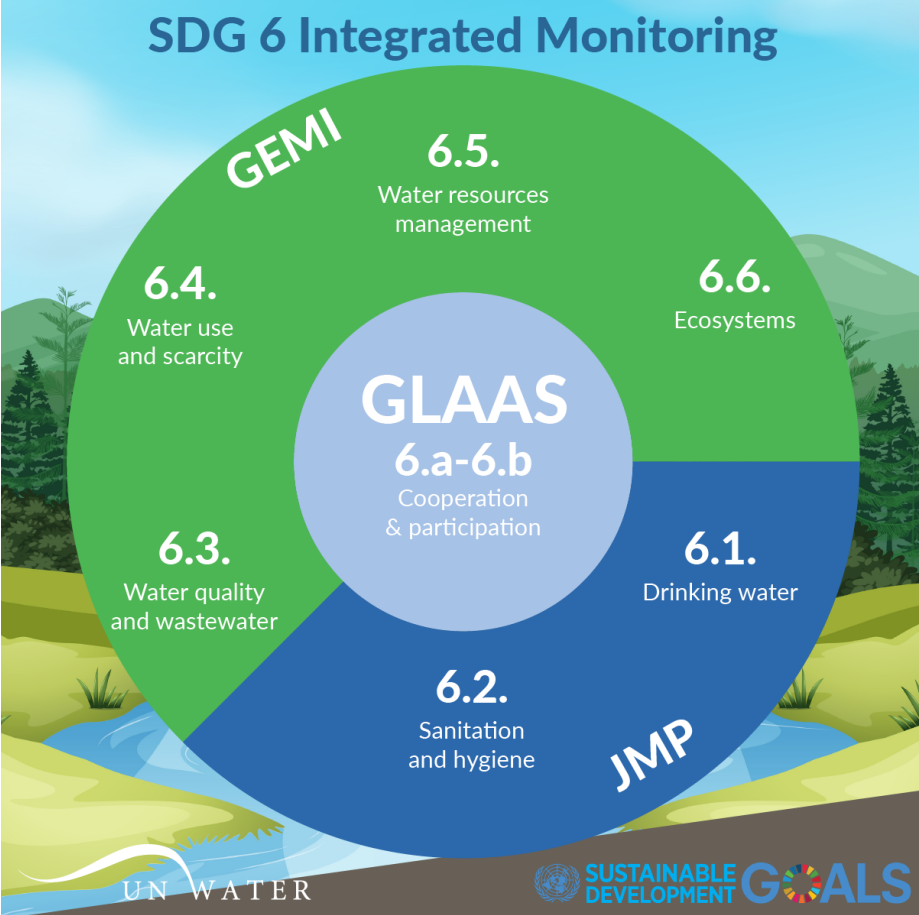


Figure 14: SDG6 Integrated Monitoring System

While these international indicators are useful as a national and global target, they are essentially outcome indicators and therefore do not provide the level of detail required for M&E at programmatic level, and do not include the structural and process indicators that are implicit in an HRBA.

JMP	GLAAS	GEMI
<p>The Joint Monitoring Programme for Water Supply, Sanitation and Hygiene is the official UN Mechanism tasked with monitoring progress of universal and equitable access to water and sanitation at the country, regional, and global levels.</p>	<p>The Global Analysis and Assessment of Sanitation and Drinking-Water monitors investments and enabling environment for water, sanitation and hygiene.</p>	<p>GEMI's focus is to integrate and expand current monitoring mechanisms on wastewater treatment, water quality, use and scarcity, integrated water resource management, including transboundary cooperation and water-related ecosystems.</p>

Figure 15: International SDG6 Monitoring Systems

How to develop human rights compliance indicators

The use of indicators in the field of human rights is part of a larger and systematic process to implement, monitor and realise rights. The indicators used are a specific, practical instrument to foster the realisation of human rights and measure their application thereof. As we have seen throughout this Guide, an HRBA attaches importance not only to the results of the programme but also to the process whereby those results are reached. Because of this, the development of human rights-based indicators plays a key role, because they measure both processes and results.

The objective of this section is to develop human rights-based indicators for the monitoring and evaluation of interventions. For this purpose, we have referred heavily to the OHCHR manual on Human Rights Indicators,^{lxxv} which is recognised as the main reference paper on this topic.

From an HRBA perspective the development of indicators implies:

- Human rights indicators must be based on international human rights instruments. According to OHCHR, most of the commonly used indicators could be reconfigured and explicitly linked to human rights standards and obligations.
 - The ratification of a treaty is an example of a structural indicator.
- Indicators must reflect the obligations of the responsible entity to respect, protect and fulfil human rights.
 - These obligations could be measured by the budget allocated to water and sanitation provision; the inclusion of vulnerable groups in water programmes; or the complaints that are received and properly resolved (process indicators).
- The selection of the indicators and the evaluation must reflect the human rights standards and cross-cutting principles.
 - Such indicators should reflect principles such as non-discrimination (for example, the number of women or indigenous peoples included in the water committee); and standards such as acceptability (for instance, do people 'feel' that the water or toilet service provisions are safe and therefore feel able to use them?) and do people 'feel' that the mechanisms for participation are really accessible for them?
- Indicators are simple, timely, reliable, and low in number.
 - If too complicated, they will be confusing, too difficult to collect or analyse, and make the process unrealistic.
- Based on transparent, testable methods.
 - All information sharing needs to be available in a transparent way, so that the data is believable and easily verified.
- Indicators are developed with local participation.
 - The participation of the local community is important when developing the indicators so that the rights of vulnerable people can be included and local community information can be introduced, either to improve the way the indicator is expressed, or how it is collected. The community also needs to see the indicators before they are finalised, so that they can contribute their ideas and thoughts to the process.
- Disaggregated data to avoid discrimination of vulnerable groups.
 - By disaggregated, we mean broken down to local areas, by gender, race, culture, age, wealth, and situation where possible.

Case Study 6: Assessment of WASH systems^{lxxvi}

Hungary

In 2018/2019 the Hungarian Ombudsman for Future Generations (FGO) participated in the voluntary assessment of water, sanitation and hygiene systems and services (WASH) as part of the UN-Water Global Analysis and Assessment of Sanitation and Drinking-Water monitoring, organised by the World Health Organization (WHO). It did so by taking part in national and international working groups, emphasising the fundamental rights aspects of access to water and sanitation. These experiences contributed to shaping the opinions formed by the FGO in its advisory role on legislative developments on the topic of the right to water and sanitation.

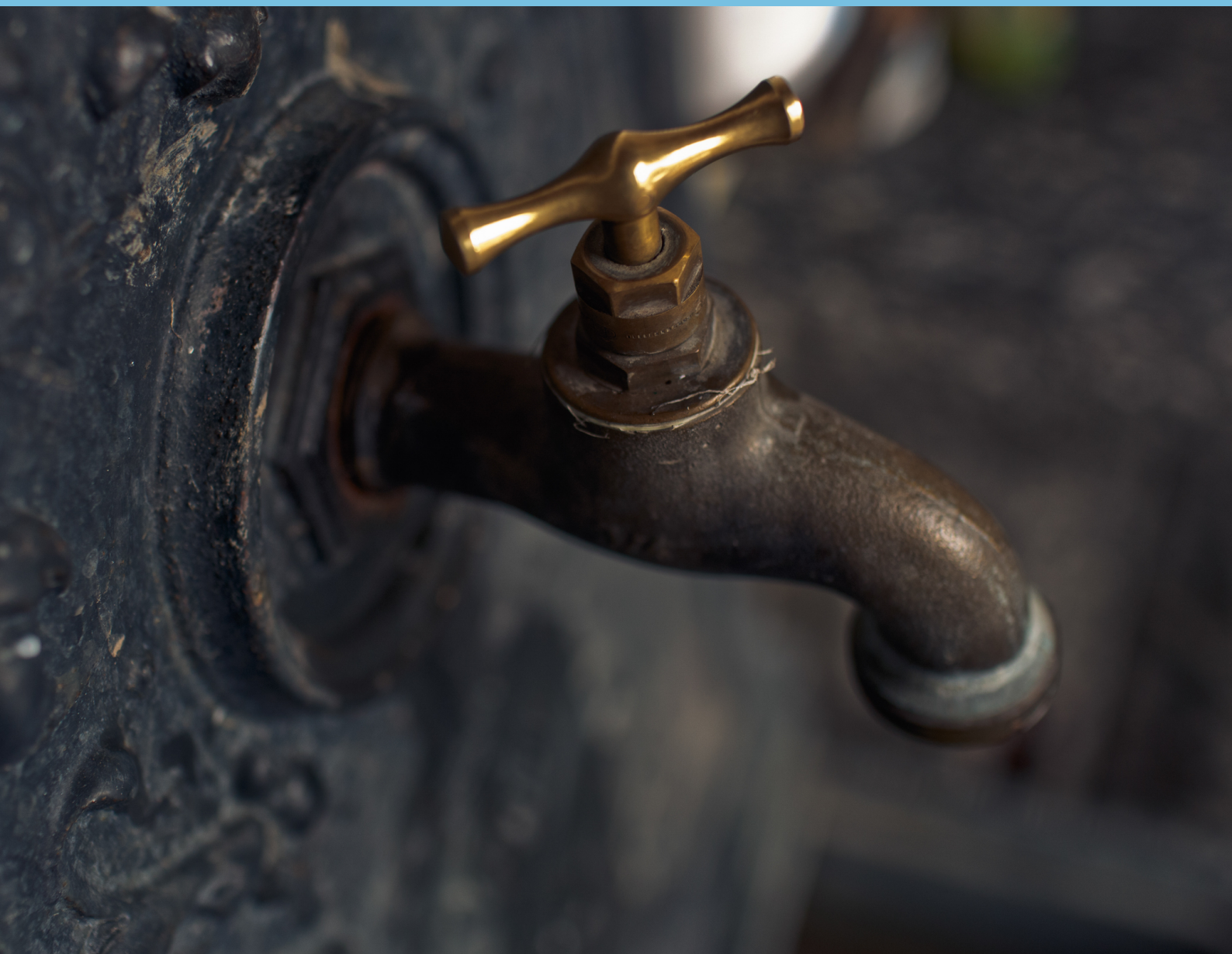


Photo: Old drinking water fountain in Budapest

STEP 3: Evaluating Results

In order to understand what is needed, the first step is to create a baseline for planning at a local or preferably at catchment level, concluding in the establishment of a system to monitor the realisation of the human rights, the goals included in SDG targets such as SDG 6 on water and sanitation, and the related goals on food, health, the right to a healthy environment and other interconnected human rights.

Assessing strengths and weaknesses of the project in realising the HRWS and lessons learnt

Human rights impact assessments are developed to assess, prevent and/or respond to potential or actual human rights impacts of a particular intervention.

- Human rights impact assessments need to be carried out using human rights indicators (structural, process and output indicators), to evaluate who is really benefitting from the intervention, how and why.
- The impact may be measured by comparing the HRWS situation carried out during the Situation Analysis (baseline), with the results after the intervention, to assess progress towards the universal realisation of the right, considering all HRWS criteria.^{lxxvii}
- Furthermore, it will focus on the impact on the reduction of inequalities: how the intervention has reached more vulnerable people and to what extent the situation of these different marginalised groups has improved during the programme.

A step-by-step approach

First understand the connection between international human rights law and how it can be implemented in practice. The cycle begins with State recognition of international human rights treaties and conventions. These are specified in the contents and obligations of national law.

This is followed by legal mapping, at basin or national level, to determine how well these water-related rights are realised and to provide an assessment for national authorities and development partners. National and River Basin Plans need to reflect action plans to support the realisation of these rights.

Duty Bearers need to understand how to respect, protect and fulfil these human rights, and right- holders frequently have no idea of their rights. It therefore is necessary for community stakeholders and oversight institutions to be trained so that they understand what is required. It is critical to include representation of all the marginalised groups, including women. And finally, there needs to be a national system of reporting, monitoring complaints and redress, which then feeds back into the system for long term improvement.



Figure 16: Cycle for Implementation of HRBA^{lxxviii}

1. Start from the baseline

The starting point is to create a baseline to establish the current situation and to set up the list of human rights-based indicators and benchmarks to measure progress.^{lxxix} This needs to be conducted at basin level to provide a holistic approach to water management. Benchmarks provide a level or a goal that needs to be achieved, such as the SDG 6 targets.

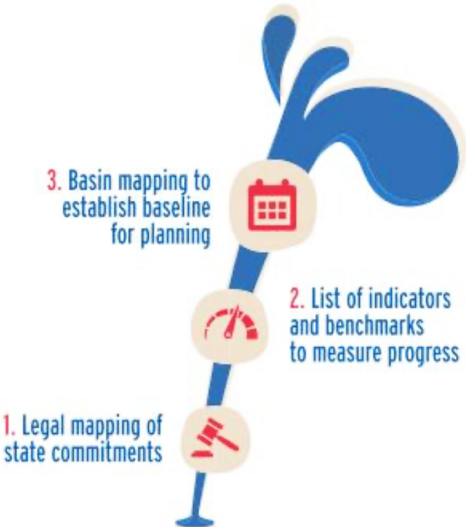


Figure 17: Create a Baseline Assessment^{lxxx}

2. Measure Progress

The second task is to look at each water-related human right for which there are clear State commitments and to assess the progress made on the elements that are an attribute of that right to estimate the extent to which the HRWS has advanced and inequalities reduced. The following hypothetical chart shows the improvements in human rights indicators over four decades, with sustainability remaining the same.

It is critical to collect disaggregated data at the river basin level rather than at national level boundaries. Over time, it is possible to see improvements in the HRWS.

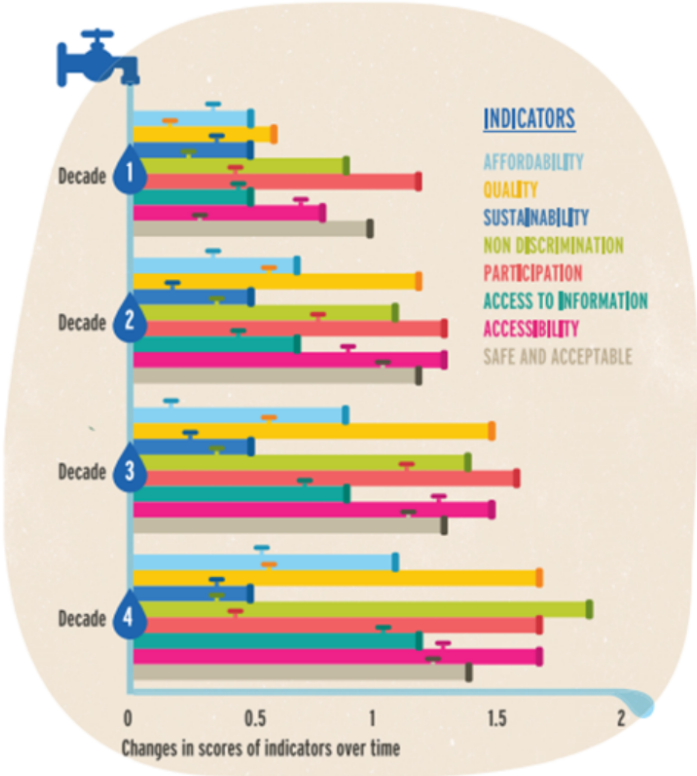


Figure 18: Example of monitoring results of human rights indicators over time^{xxxxi}

On the road towards universal coverage, progress should be measured not only in terms of the numbers of people using the services. We should explicitly aim to systematically reduce inequalities among the population groups listed in the table below. The targeting of vulnerable and marginalised populations is a key priority within an HRBA. Within the mapping phase, it is crucial to identify the priority groups and priority needs.

3. Validation and stakeholder approval

While the baseline provides valuable information and a gap analysis, it can easily be contested by government officials or different stakeholder groups. It is therefore important to have a robust validation process.

DISADVANTAGED GROUPS	ADVANTAGED GROUPS
Poor	Rich
Rural	Urban
Informal settlements	Formal Urban Settlements
Disadvantaged groups linked to gender, age, race, culture and disability	General Population

Table 9: Mapping the reduction or elimination of inequalities between population groups

Public consultation is achieved by sharing the results with the relevant stakeholders and local community. Bearing in mind that most people are not water governance experts, the information needs to be shared in a way that is understandable to the lay person, in their own language, easily accessible in different formats, through the internet, public notice boards, stakeholder engagement meetings and, if necessary, bilateral meetings. This also provides an opportunity for feedback on the status of the environment, the water quality and accessibility, and people’s needs and priorities. All of which should be incorporated into the planning framework.

Duty of States to respect, protect and fulfil human rights

Returning to the human rights obligations of duty-bearers, as outlined in Section 1, it is the duty of the State to respect, protect and fulfil human rights obligations. To do this, it is essential that inalienable rights be established at the basin level and that they are preserved in the water allocations. Evaluation of the human rights obligations of the State (whether the country, the local authority, or the river basin), requires that these obligations are met.

Respect

The first step is to identify existing rights. It is common for water for domestic use, i.e. drinking and personal use (the human right to water) to be overlooked in water allocation regimes, even though these volumes are relatively small. An HRBA puts this requirement first, before other water demands can be met.

These rights are inalienable, and a certain volume needs to be reserved in the basin. To make this work, these rights need to be formally registered and the rights-holders need to be aware and informed of their rights. Therefore, they need to be realised before any other planning considerations can be taken into account.

Protect

Certain stakeholders in the catchment could negatively affect the rights of others by:

- Over-abstracting water from a source, leaving too little for the enjoyment of basic minimum rights by other stakeholders.
- Releasing pollutants into common water resources, interfering with the existing rights-holders' entitlements to water of sufficient quality.

To avert this, those who could affect the rights of others need to be informed of their obligations and legally enforceable water rights tools need to be developed for demand management and/or waste reduction such that rights are no longer infringed. Sanctions need to be developed and enforced for areas where there is non-compliance.

Fulfil

Lastly, States have the obligation to fulfil water related human rights by taking active measures to ensure the progressive enjoyment of these rights. For example, ensuring water for hygiene and safely managing wastewater services to uphold the core provision to avoid disease.

Very important for a cross-programme evaluation is the possible impact of the water and sanitation programme on health and education programmes, and vice versa, as these programmes are mutually strengthening. Also connected are the rights to a healthy environment, given the dependency of clean drinking water on the good management of water governance at river basin level, and the impact of wastewater management on the pollution of waterways.

4. Development of human rights indicators for monitoring and redress

Human rights Indicators

The development of human rights indicators is based on elements of the HRWS that include the priorities and needs of the local population and considers how to integrate existing systems and institutions in the process for monitoring these rights. Through the first three steps of assessment of the baseline, the mapping of and then consultation with the relevant stakeholders, it is possible to identify the priorities and needs, as seen from the point of view of each of the stakeholders. The input from vulnerable groups needs to have special weight considering that they are generally without the power, position and voice to express themselves as loudly as the other stakeholders.

By framing the indicators into the ten elements that are expressed by the criteria and principles of the HRWS^{lxxxii} and analysing the accessibility of each of these elements from the viewpoint of each different vulnerable group, it is possible to develop a set of evaluation indicators that should be monitored. It is essential that these indicators are simple enough to be measured accurately, disaggregated enough to capture every vulnerable group, and meaningful such that they support the progressive realisation of the HRWS.

By developing indicators that are applicable at river basin level, it is then useful to track the results over time, to determine how the national policies that are developed in the PNH are effectively integrated into local authority policies and whether they are supported by realistic outcomes that achieve the SDG goals.

Transparency

The HRBA principle of transparency is critical to ensure that the community can read and understand the outcomes of this monitoring such that they are able to provide important feedback into the system for improvement.

1. Results need to be shared in a wider variety of media to capture different languages, methods of communication, levels of technical access, and vulnerability.
2. They secondly need to provide a simple system for people to express their opinions and provide feedback.
3. And importantly, the results of this feedback need to be evident through public reports and sharing of information to show that there has been redress.

With a comprehensive system of monitoring, sharing data, system for public feedback and demonstration of results, the public are more likely to feel included in the process; increasing numbers of the vulnerable groups are going to be included in the service provision; and the results will start to demonstrate gradual improvement of accessibility over time. The outcome is a more sustainable service that reaches the marginalised communities that are currently at risk of being overlooked without such monitoring. The collection of this human rights sensitive data is therefore essential to the achievement of the Sustainable Development Goals and the realisation of the human rights to water and sanitation.

STEP 4: Evaluate the HRBA throughout the whole intervention

It is important to understand the factors that have contributed to change in the realisation of rights, regardless of the overall impacts of the programme. The HRBA is renowned for focusing on the process of change. Consideration of the process principles of the HRBA^{lxxxiii} help in understanding the degree of impact.

Table 10 provides guiding questions that can be formulated to assess the integration of human rights principles throughout the entire intervention process. Any negative answers must be investigated with rights-holders and duty-bearers, in accordance with the principle of participation. The lessons learned should be used to improve the progressive realisation of the HRWS and the design of future interventions.

HUMAN RIGHTS PRINCIPLES ^{lxxxiv}	ASSESSMENT INDICATORS
Non-discrimination ^{lxxxv}	Has the programme or project taken into account the rights to water and sanitation for those in the most vulnerable situations?
Access to information ^{lxxxvi}	Have the programme deliverables been clearly understood by duty-bearers and rights-holders?
Participation ^{lxxxvii}	Has the target population been directly involved throughout, from situation analysis until evaluation?
Accountability ^{lxxxviii}	Has the programme improved the capability of duty-bearers to deliver services? Has the programme addressed the right to compensation for those negatively affected? Has the programme provided for transparency and participation mechanisms?
Sustainability ^{lxxxix xc}	Is the programme generally accepted by the community as the best solution? Does it reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies? Does the programme use natural resources in a way that protects the environment and the quality of ground and surface water?

TABLE 10: Assessing the integration of human rights principles throughout the process^{xic}

CHECKPOINT 4

Implementation Checklist			YES/NO
General	1	Does the monitoring and evaluation investigate the impacts of the programme with respect to the criteria of availability, quality, acceptability, accessibility and affordability?	
	2	Does the evaluation assess the sustainability of the interventions?	
The Most Vulnerable	3	Does the monitoring and evaluation show which vulnerable groups have improved their situation in relation to the HRWS and which have not and why?	
Root Causes	4	Does the evaluation system detect causes, practices and impacts of any discriminatory actions that may occur?	
Rights-Holders and Duty-bearer	5	Does the monitoring and evaluation investigate changes for both rights-holders and duty-bearers?	
Participation	6	Is the public included in defining the achievement or not of the programme/project targets?	
	7	How are women, especially women in more vulnerable situations, included?	
Development Cooperation Agents	8	Are the findings made public and transparent?	
	9	Is the level of disaggregation in the evaluation sufficient?	
	10	Does the evaluation determine whether its implementation has fulfilled the rights of targeted populations?	
	11	Have development partners allocated enough resources to guarantee the inclusion of the opinions of women and vulnerable groups in the monitoring and evaluation process?	

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^{lxix} Disaggregation refers to the breakdown of aggregated data and reporting in smaller data sets instead of national averages

^{lxx} United Nations Evaluation Group, Integrating Human Rights and Gender Equality in Evaluation – Towards UNEG Guidance (UNEG, 2011)

^{lxxi} Human Right 2 Water (HR2W), National Human Rights Institutions and Water Governance – Compilation of Good Practices (HR2W, 2020) p.37

^{lxxii} World Health Organization (WHO) and the United Nations Children’s Fund (UNICEF), Safely Managed Drinking Water – Thematic Report on Drinking Water (WHO, 2017)

^{lxxiii} UN-Water and World Health Organization (WHO), Financing Universal Water, Sanitation and Hygiene under the Sustainable Development Goals – UN-Water Global Analysis and Assessment of Sanitation and Drinking Water (WHO, 2017)

^{lxxiv} The Global Environment Monitoring Initiative, the global leader in developing insights, networking, and creating collaborative sustainability solutions for business

^{lxxv} United Nations Office of the High Commissioner for Human Rights, Human Rights Indicators, a guide to measurement and implementation (OHCHR, 2012)

^{lxxvi} Human Right 2 Water, National Human Rights Institutions and Water Governance – Compilation of Good Practices (HR2W, 2020) p.30

^{lxxvii} Availability, quality, accessibility, affordability, acceptability

^{lxxviii} Adapted from Cap-Net, WaterLex, Water Governance Facility, Redica, Human Rights-Based Approach to Integrated Water Resources Management – Training Manual and Facilitator’s Guide WaterLex, 2017, p.79

^{lxxix} Ibid

^{lxxx} Ibid p.78

^{lxxxi} Ibid p.81

^{lxxxii} See Figure 1

^{lxxxiii} Non-discrimination, access to information, participation, accountability, sustainability

^{lxxxiv} Adapted from UNEG, Integrating Human Rights and Equality of Gender Evaluation – Towards an Orientation UNEG (UNEG, 2011) p.38.

^{lxxxv} General Comment 15, Par 13

^{lxxxvi} Ibid Par 48

^{lxxxvii} Ibid

^{lxxxviii} Ibid Par 49

^{lxxxix} General Comment 15, Par 11

^{xc} Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, Declaration on Environment and Development, principles 1, 8, 9, 10, 12 and 15; and Agenda 21, in particular principles 5.3, 7.27, 7.28, 7.35, 7.39, 7.41, 18.3, 18.8, 18.35, 18.40, 18.48, 18.50, 18.59 and 18.68.

^{xic} Adapted from UNEG, Integrating Human Rights and Equality of Gender Evaluation – Towards an Orientation UNEG (UNEG, 2011) p.38.



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