

This PDF is a section from the following book

MANUAL ON THE HUMAN RIGHTS TO SAFE DRINKING WATER AND SANITATION FOR PRACTITIONERS

Lead Author: Robert Bos

*Contributing Authors: David Alves, Carolina Latorre, Neil Macleod,
G rard Payen, Virginia Roaf & Michael Rouse*

Published by IWA Publishing
Alliance House
12 Caxton Street
London SW1H 0QS, UK
Telephone: +44 (0)207 7654 5500
Fax: +44 (0)207 7654 5555
Email: publications@iwap.co.uk
Web: www.iwapublishing.com

First published 2016
© 2016 IWA Publishing

Apart from any fair dealing for the purposes of research or private study, or criticism or review, as permitted under the UK Copyright, Designs and Patents Act (1998), no part of this publication may be reproduced, stored or transmitted in any form or by any means, without the prior permission in writing of the publisher, or, in the case of photographic reproduction, in accordance with the terms of licenses issued by the Copyright Licensing Agency in the UK, or in accordance with the terms of licenses issued by the appropriate reproduction rights organization outside the UK. Enquiries concerning reproduction outside the terms stated here should be sent to IWA Publishing at the address printed above.

The publisher makes no representation, express or implied, with regard to the accuracy of the information contained in this book and cannot accept any legal responsibility or liability for errors or omissions that may be made.

Disclaimer

The information provided and the opinions given in this publication are not necessarily those of IWA and should not be acted upon without independent consideration and professional advice. IWA and the Editors and Authors will not accept responsibility for any loss or damage suffered by any person acting or refraining from acting upon any material contained in this publication.

This PDF is a section from the book

Manual on the Human Rights to Safe Drinking Water and Sanitation for Practitioners

Lead Author: Robert Bos

Contributing Authors: David Alves, Carolina Latorre, Neil Macleod,
Gérard Payen, Virginia Roaf & Michael Rouse

ISBN: 9781780407432 (Hardback)

ISBN: 9781780407449 (eBook)

DOI: 10.2166/9781780407449



© Jesus Keller/Shutterstock.com

Chapter 1 Introduction

The adoption in 2010 of United Nations (UN) resolutions¹ recognising the Human Right to Safe Drinking Water and Sanitation has opened new perspectives for the achievement of universal access to water and sanitation services. It has also created new opportunities and challenges for water and sanitation practitioners around the globe. Both the United Nations General Assembly (in July 2010) and the United Nations Human Rights Council (in September 2010) acknowledged that access to safe drinking water and sanitation is a right implied by the established human right to an adequate standard of living. And, that it is linked intrinsically to the rights to adequate housing, to the highest attainable standard of health and to life. On the issue of terminology (Right or Rights) see Box 1.1.

Through the adoption of these resolutions UN Member States have accepted their obligations as the duty bearers for the realisation of the rights. They can therefore be held accountable for progress towards their full realisation. As duty bearers, governments have three types of obligation: to respect, protect and fulfil human rights (see Box 1.2). Human rights to water and sanitation have evolved from an implicit responsibility – under the rights to health, development and an adequate standard of living – to an explicit obligation (Gupta *et al.* 2010).

As applies to all rights pertaining under the International Covenant on Economic, Social and Cultural Rights, the concept of progressive realisation is at the core of the human rights to safe drinking water and sanitation (see Annex A for more details). Clearly, universal access to safe drinking water and sanitation cannot be achieved overnight. The term “progressive realisation” refers to the principle that States, as the duty bearers, are required to act to the best of their abilities and capacity to maximise progress towards a situation where their entire population enjoys human rights without inequalities or discrimination. To achieve this, however, contributions from many actors at the local, national, regional and global levels will be required. Among these actors figure the operators and regulators of drinking water supply and sanitation services, including formal service providers (managers of utilities, whether run as a public or a private enterprise, or as a mixed model); those in charge of semi-formal or informal service delivery such as local non-governmental organisations (NGOs); small-scale informal service

¹On 28 July 2010 the United Nations General Assembly, at its 64th session, adopted Resolution A/64/292 (The Human Right to Water and Sanitation) <http://www.un.org/es/comun/docs/?symbol=A/RES/64/292&lang=E>; on 28 September the UN Human Rights Council, at its 18th session, adopted Resolution A/HRC/RES/18/1 (The Human Right to Safe Drinking Water and Sanitation) <http://www.un.org/es/comun/docs/?symbol=A/HRC/RES/18/1&lang=E>.

Human Rights To Safe Drinking Water And Sanitation

Box 1.1 Right or Rights

The official language of the 2010 UN resolutions refers to the human right (*singular*) to safe drinking water and sanitation, taking the provision of drinking water supply and the provision of sanitation facilities and services in unity, as has been the case since the 1977 UN Conference on Drinking Water Supply and Sanitation in Mar del Plata, Argentina. This indiscriminate linking of drinking water and sanitation is increasingly questioned.

In terms of development and investment, the focus on drinking water supply has been to the detriment of the development of sanitation facilities and services. It has also separated sanitation in its narrow sense (i.e. providing facilities to dispose of and manage human excreta) from the wider sanitation landscape including the management of wastewater, solid waste and other physical, chemical and biological factors in the environment that pose a risk to human health. In her Handbook (2014) Catarina de Albuquerque, UN Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation from 2008 to 2014, therefore argued for the rights (*plural*) to water and to sanitation to be addressed as two distinct components within the right to an adequate standard of living. This IWA Manual adopts her pragmatic suggestion, and the abbreviation HRWS refers to the human rights to safe drinking water and sanitation. This facilitates the design of specific criteria and the implementation of specific procedures for each right. And it creates space for efforts aimed at achieving an expansion of sanitation services in terms of availability, accessibility, quality, acceptability and affordability. It also recognises that not all sanitation, even in the narrow sense, is based on water-borne systems. And it allows for more effective links on specific drinking water or sanitation issues between different public sectors, between the public and private sector and between the processes of realising different sets of human rights.

On 17 December 2015, the UN General Assembly resolved this debate in favour of two distinct rights: the right to safe drinking water and the right to sanitation. It adopted by consensus Resolution A/RES/70/169, recognising that ‘the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity.’²

Box 1.2 Examples of duty bearers’ obligations with respect to the HRWS

Respect: the State may not prevent people already enjoying the rights from continuing to enjoy them. For example, the State cannot permit an individual’s water supply to be disconnected without respecting due process.

Protect: the State must prevent third parties from interfering with aspects of people’s rights to water and sanitation, for example by polluting a water source. Irrespective of whether water services are provided by a public or private sector entity, the State must ensure affordability through adequate price regulation.

Fulfil: the State must ensure that the conditions are in place for everyone to realise their full rights, i.e. it must allocate maximum resources to ensure that all persons are connected progressively to a safe drinking water supply and provided with sanitation services.

²<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16903&LangID=E#sthash.XEuyj8Lq.dpuf>.

Introduction

providers; drinking water and environmental regulators responsible for maintaining national standards and norms; and those with relevant responsibilities in other national and local government agencies.

The Governing Assembly of the International Water Association (IWA) responded to this and several other international developments at its meeting in Busan, Korea, in September 2012, with the adoption of a Resolution on *Rio+20 follow-up by the International Water Association: Effective Contribution of Water Professionals to the Realization of Commitments made by Governments at the International Level*³. It invites the IWA Membership, among a number of other items,

- *to respect and contribute to implementing the human right to safe drinking water and sanitation in all their activities, and to assist utilities, and national and local governments in their efforts to improve water and sanitation services; and,*
- *to develop together operational guidelines for the contribution of water professionals to the practical implementation and progressive realization of the HRWS, [...]*

In follow-up to this Resolution, IWA established a Task Force with the remit of producing a practitioners' Manual on the HRWS, and it engaged in a collaborative arrangement to support this activity, notably in close consultation with the team of the UN Special Rapporteur on the Human Right to Water and Sanitation.

The target audience for this Manual is defined, by and large, by the interests of the IWA membership: operators and managers of private and public sector utilities, others with responsibilities for the formal or informal provision of drinking water supply and sanitation services, NGOs and other civil society groups, and government agencies at all levels, dealing with the planning, design, implementation, surveillance and regulation of water supply and sanitation services. Members of this target audience will also be tasked with making contributions towards achieving water and sanitation targets contained in the framework of the Sustainable Development Goals (SDGs, see Annex B).

The objectives of the Manual are the following:

- to introduce its target audience to the principles and concepts contained in the HRWS,
- to clarify to the target audience language and terminology used in the promotion of human rights,
- to point out the value added by the HRWS for utilities, as progressive realisation implies an expansion of the customer base, improvements in relation to operation and maintenance and non-revenue water, and opportunities to increase service levels, and
- to provide guidance on the roles and responsibilities of all actors addressed by the Manual in contributing to progressive realisation of the HRWS, and on how the human rights principles and actions can be incorporated into their essential functions.

In terms of target audience and objectives, this Manual complements the Handbook on Realizing the Human Rights to Water and Sanitation by the first UN Special Rapporteur Catarina de Albuquerque (2014).

At the very start, some common and persistent misconceptions about the human rights to water and sanitation must be eliminated—they are elaborated in Annex A:

- (1) The human right to water does not mean that water supply services must be available for free; they must, however, be affordable, particularly for those with little or no income—viable drinking water supply services require a system of cost recovery based on a tariff system that clearly reflects issues of affordability;

³<http://waterbriefing.org/home/water-issues/item/6301-iwa-pledges-%E2%80%98full-access%E2%80%99-to-safe-drinking-water>.

Human Rights To Safe Drinking Water And Sanitation

- (2) The human rights to water and sanitation do not exclude the private sector from providing these services—in fact, there is no formal human rights position concerning the business model for service provision; and
- (3) The human right to sanitation must not be understood as a government obligation to provide citizens with free sanitation facilities. Access to sanitation must, however, be affordable and governments do have the obligation to create a legal and regulatory framework that supports universal access to adequate sanitation.

The aim of this Manual is to promote informed decision-making by operators, managers and regulators in their daily routine, as well as to encourage them to engage actively in the national debates that will take place in many countries where the HRWS is being translated into national and local policy, legislation, and regulation. In most countries, creating such an enabling environment will, in fact, be the first critical step in the process towards the realisation of the rights, followed by the allocation of roles and responsibilities to the various actors at national and local levels.

It is recognised that in many countries service providers and regulators have played an important role in promoting the concepts of equality, non-discrimination, sustainability, accountability, participation and transparency long before the human rights to safe drinking water and sanitation were included in the Covenant on Economic, Social and Cultural Rights. These efforts have come to expression in strategies towards universal access and pro-poor programmes. Now that the human rights to water and sanitation have been formalised, this Manual presents options to systematically address the human rights principles and criteria. It therefore focuses on the implications of the new human rights obligations in terms of new laws and regulations, or updated components of existing legislation/regulation, and the consequences for operations and management by all actors (whether public or private) that specifically address the human rights principles and criteria.

Clearly, even with the readership well-defined, the application of actions and procedures proposed by this Manual will have to take place in a range of different settings: in low-, middle- and high-income countries with different levels of socioeconomic inequality, in countries and regions with different levels of water scarcity or water abundance, under different conditions of infrastructure and levels of asset management, with different geographical, seasonal and transboundary challenges in water availability, different demographics as reflected in, for example, the composition and dynamics of a population in terms of urban, peri-urban and rural sub-groups, and the presence of indigenous communities, and different environmental, cultural and gender equality aspects and requirements for water resources management and use. The various actors have to tailor their approaches to fit the needs of the specific settings in which they operate, bearing in mind the process must ensure a gradual reduction in inequalities and discrimination. Yet, it is envisaged that the result of their efforts will be the same: universal access to water and sanitation that is safe, affordable, reliable and sustainable.

The Manual is structured into an introductory part (Chapters 1 and 3) and an operational part (Chapters 4, 5, 6 and 7). Chapter 2 presents a summary of the key recommended actions for the various main actors. In Chapter 3 the human rights criteria are covered in detail, both for drinking water and sanitation, as well as the five human rights principles. The implications emerging from these criteria and principles are discussed from an operational perspective. Chapter 4 proposes ways by which water and sanitation professionals can contribute to the creation of an enabling environment for the effective implementation of HRWS actions. Chapter 5 provides guidance on how the HRWS can be incorporated effectively into the institutional frameworks of utilities and regulatory bodies. Chapter 6 proposes how actions supporting the progressive realisation of the HRWS can be made part of the essential functions of operators, managers

Introduction

and regulators. It links the proposed HRWS actions to specific actors. Finally, within this generic framework, many practical issues, hurdles and pitfalls will appear and some of these are discussed in Chapter 7. Annex A provides detailed background information including a reminder of the scale of global drinking water and sanitation challenges, a description of the human rights framework, the events leading up to the adoption of the UN resolutions, an explanation of the concept of progressive realisation and an attempt to straighten out some misconceptions and misinterpretations about the HRWS. Annex B introduces the SDG framework of goals, targets and indicators, with special reference to SDG 6.