



WHAT DO WE MEAN BY THE HUMAN RIGHT-BASED APPROACH?

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IPU WORKSHOP, QUY NHON

OUTLINE

1. Introduction to HR2W
2. Introduction to the HRWS
3. Link with Healthy Environment
4. Inclusive decision-making
5. Roadmap for parliamentarians

Human Right 2 water

VISION

- A world where all people realise the human rights to water and sanitation

MISSION

- To collect, use and share expert knowledge on how the human rights to water and sanitation should be integrated into law, policy and practice to realise safe and sustainable access to water and sanitation for all, including the most vulnerable and marginalised

OBJECTIVES

MISSION: To collect, use and share expert knowledge on how the human rights to water and sanitation should be integrated into law, policy and practice to realise safe and sustainable access to water and sanitation for all people, including the most vulnerable and marginalised

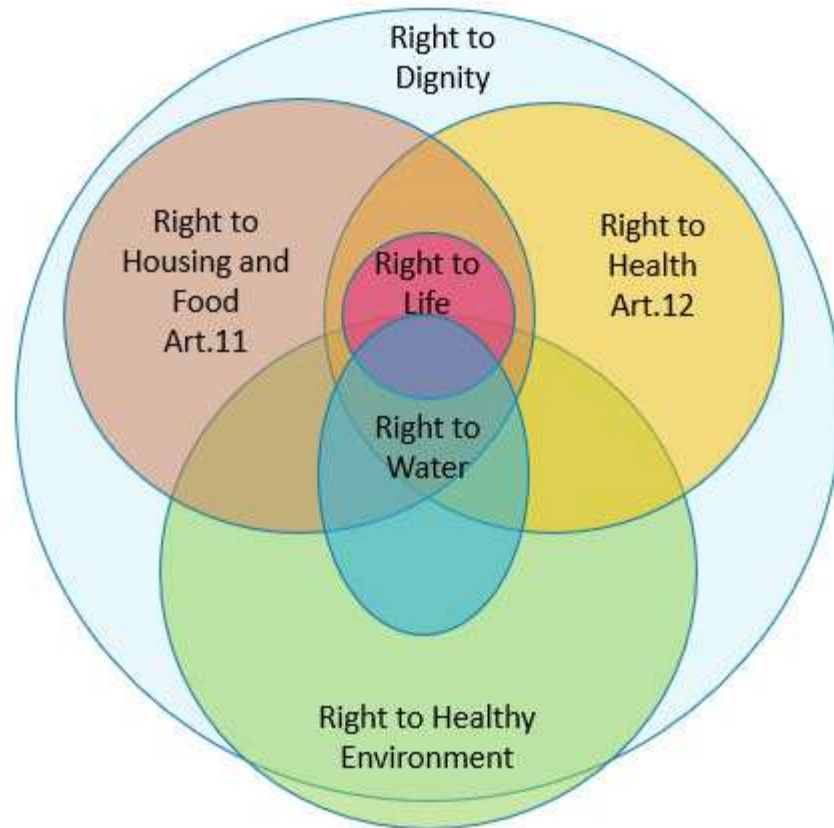
OBJECTIVES:

1. **Research** : Analysing law and policy to support the Human Rights to Water and Sanitation
2. **Human Rights-Based Approach:** Scaling up innovative public and private sector solutions for marginalised areas and vulnerable people by incorporating the HRWS into national policies/standards
3. **Human Rights Indicators:** Programmes with state and local water utilities to realise the HRWS through monitoring based on research, capacity building and human rights sensitive indicators
4. **Visibility** : Recognition that the human-rights based approach is necessary for achieving SDG 6 for marginalised people, women and vulnerable groups



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HUMAN RIGHTS AND WATER



The Human Rights to Water and Sanitation (HRWS) are essential rights for providing people with a life lived in dignity and good health.

All the rights are interlinked, with water at their core

Priority needs to be given to water for personal and domestic use

HUMAN RIGHTS TO WATER & SANITATION

- Human Rights are binding under international law
 - Duty to protect, respect and fulfil
 - Progressive realisation

“The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.”

“The human right to sanitation entitles everyone to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, and social and culturally acceptable, and that provides privacy and dignity”

- Pay special attention to the needs of women and girls and those in vulnerable situations
- Sanitation is more than just access to use of toilets - Includes treatment and safe disposal or re-use of faeces, urine and domestic wastewater...to minimize health risks

General Comment No. 15

2002

Links the right to water and adequate standard of living. Clarifies the scope and content of the right to water. Explains what is meant by sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses

UNGA Resolution 64/292

2010

Entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use. Also at HRC Res 15/9 same year

UNGA Res 70/169 and HRC Res 33/10

2015

Recognizes that the human right to sanitation entitles everyone, without discrimination to have physical and affordable access to sanitation, separate from water

SDG 2030 Agenda

2015

Ensures availability and sustainable management of water and sanitation for all, Targets 6.1 and 6.2

2015

10-year celebration of HRWS

2020

Special Rapporteur Commemoration of the 10-year anniversary: side-event at High Level Political Forum 2020

Right to Healthy Environment

2021

A safe, clean, healthy and sustainable environment is a human right recognised by UNHR 48/13

2023

6 CLEAN WATER AND SANITATION



DUTY BEARERS AND RIGHTS HOLDERS

States have a duty to Protect, Respect and Fulfil Human Rights

- **Progressive Realisation** means:
 - obligation to make progress to maximum of available resources
- **Duty Bearers** include:
 - national governments, water and sanitation authorities, National Human Rights Institutions (NHRIs), parliamentarians, businesses and service providers, UN and development agencies
- **Rights Holders** include:
 - civil society, marginalised and vulnerable people, women, children, migrants, indigenous peoples, elderly, disabled, internally displaced....

THE NORMATIVE AND PROCEDURAL CONTENT

of the human rights to water and sanitation

1. Normative Content	2. Procedural Guarantees
I. Accessibility	I. Non-discrimination
II. Affordability	II. Access to information
III. Availability	III. Public participation
IV. Quality	IV. Accountability
V. Acceptability	V. Sustainability

Normative = Standards

Procedural = Human rights-based approach

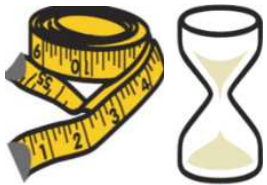
ACCESSIBILITY

- Accessibility concerns the **level** of access and identifies **who** has access

Physical accessibility: ...“Sufficient, safe and acceptable water must be accessible within, or in the immediate vicinity, of each household, educational institution and workplace.....Physical security should not be threatened during access to water facilities and services.”

GC No.15 Para 12(c)

Accessible



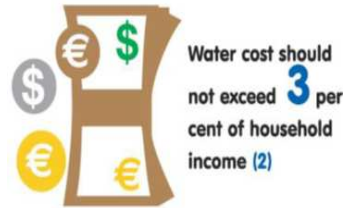
Water source has to be within 1,000 metres from home and collection time less than 30 mins

Available



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

Affordable



Water cost should not exceed **3** per cent of household income (2)

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

Quality



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

Acceptable



Water and sanitation must be safe, private and allow dignity

SDG 6 AND HUMAN RIGHTS



SDG 6.1 and 6.2 on drinking water
and sanitation

- **SDG 6 captures most of the criteria of the HRWS:**
- **SDG 6: Ensure **availability** and **sustainable** management of water and sanitation for all**
- **Target 6.1:** By 2030, achieve **universal and equitable access** to **safe and affordable** drinking water for all
- **Target 6.2:** By 2030, achieve **access to adequate and equitable** sanitation and hygiene for all and end open defecation, paying special attention to the **needs of women and girls and those in vulnerable situations**

PROCEDURAL PRINCIPLES – THE HRBA

- Water and sanitation facilities must be **available to all on a non-discriminatory basis**.
- Priority must be given to the **most marginalized and vulnerable** to the exclusion of discrimination

Non-Discrimination



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

Participation



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

Access to Information



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

Accountable



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

Sustainable



For future generations – must respect the environment and ensure balance of economic, social and environmental sustainability

THE HUMAN RIGHT TO WATER AND THE LINK TO A HEALTHY ENVIRONMENT

OVERVIEW OF STUDY RECENTLY CONDUCTED BY WHITE AND CASE



OUR ENVIRONMENT, DRINKING WATER AND GROUNDWATER

- At least 50% of global drinking water comes from groundwater
- There is an absence of concern about protecting this dwindling source
- Governments have a duty to protect, respect and fulfil the human right to water

HR2W STUDY IN 16 COUNTRIES

- Assessment of national water laws
- How do countries express the human right to:
 - Water
 - e.g. is it in the constitution? What laws relate to accessibility, affordability, etc
 - Sanitation
 - As a separate right, important for human dignity, also for protecting groundwater
 - A Healthy Environment
 - In the context of water resources

WHAT PROMPTED THIS STUDY?

- A clean, healthy and sustainable environment is a human right
 - 8 October 2021, UN Human Rights Council adopted resolution 48/13
- >150 countries recognize and protect the right to a healthy environment
 - through their constitutions, national laws, judiciaries or ratification of international instruments.
- And yet the human right to water is only recognised by a quarter of countries in their constitution
- Can we use this connection to prompt interest/action/political will?

METHODOLOGY

- Comparison of the HRHE Framework Principles and General Comment No15 for the HRWS
- The human rights-based approach principles apply to both sets of rights
- Areas of complementarity
 - Relating to both the environment and the provision of water

Principles of the Human Right to a Healthy Environment (from Framework Principles)	Principles of the Human Rights to Water and Sanitation (from General Comment No.15)
Human Rights	
Principle 1. States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights.	GC 1. Water is a limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights. GC 20. The right to water, like any human right, imposes three types of obligations on States parties: obligations to respect, obligations to protect and obligations to fulfil.
Sustainable environment	
Principle 2. States should respect, protect and fulfil human rights in order to ensure <u>a safe, clean, healthy and sustainable environment</u>	<i>Respect:</i> GC 21: The obligation to <i>respect</i> requires that States parties refrain from interfering directly or indirectly with the enjoyment of the right to water. The obligation includes, inter alia, refraining from engaging in any practice or activity that denies or limits equal access to adequate water; arbitrarily interfering with customary or traditional arrangements for water allocation; <u>unlawfully diminishing or polluting water</u>, for example through waste from State-owned facilities or through use and testing of weapons; and limiting access to, or destroying, water services and infrastructure as a punitive measure, for example, during armed conflicts in violation of international humanitarian law. <i>Protect:</i> GC 23. The obligation to <i>protect</i> requires States parties to prevent third parties from interfering in any way with the enjoyment of the right to water. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority. The obligation includes, inter alia, adopting the necessary and effective legislative and other measures to restrain, for example, third parties from denying

COUNTRIES IN THE STUDY

Africa	Latin America	Asia-Pacific	Europe
Chad	Costa Rica	India	Turkey
Kenya	El-Salvador	Nepal	
Niger	Guatemala	New Zealand	
Senegal	Honduras	Singapore	
South Africa	Mexico		
Uganda			

Legal research supported with generous support from

WHITE & CASE

DETAILED METHODOLOGY

- Robust questionnaire
 - Water and environmental laws
 - SDG 6
 - Human Rights to Water and Sanitation
 - Framework principles of the right to a healthy environment
- Reference national and international laws

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BASED ON COUNTRY LEGAL MAPPING OF HRWS

- Environmental factors added in based on the Framework Principles
- Reviewed by several members of the HR2W Expert Committee
- Special Rapporteur HRHE

9/26/202

A. Availability and accessibility (SDG 6.1, 6.2, 6.4)

1. What laws or regulations ensure that a minimum essential level of water is available to all?
[]
2. What are the standards/policies on the amount of water to be made available?
[]
3. In cases where water is not available on premises, what mechanisms are in place to ensure collection times do not exceed 30 minutes including queuing?
[]
4. Does the law ensure continuous supply of water for all? [] In instances where water availability is not continuous, what measures are implemented?
[]
5. How is water supply availability ensured for marginalized and vulnerable groups, e.g., economically challenged or less developed rural areas?
[]
6. Does the law/policy prioritize water for domestic uses over other uses?
[]
7. What are the grounds for disconnecting, interrupting or altering water supply and sanitation services (e.g., authorities may alter water supply in case of droughts or emergencies, in which cases are disconnections possible...)?
[]
8. What are the procedural standards/criteria for permitting interruption, disconnection or alteration of water supply and sanitation services?
[]
9. Are alternative ways of water supply and sanitation services provided for in case of alteration of supply and/or service?
[]

10. Does law/policy provide guidance on:

The number of water outlets? []

The safety, distance and time from a dwelling or structure to reach water outlet or sanitation facilities (e.g., laws that specify water outlets must be available within a certain distance from a school or household)? []

Technical safety of water outlets or sanitation facilities (e.g., law requiring that certain standards are applied in the construction of those facilities or of buildings)? []

11. Are there any standards that protect healthy natural water bodies to maintain sustainable sources of water for drinking or other household uses?
[]

12. Do groundwater sources and aquifers have an allocation of water volume protected from extraction to ensure long term sustainability?

13. Is there any provision in the law/policy for availability and accessibility of water and sanitation facilities in non-domestic places such as schools, hospitals, workplaces, prisons, refugee camps, etc.?
[]

B. Quality and safety (SDG 6.1, 6.2, 6.3)

1. Are there parameters of quality and safety for drinking water established under law?
[]
2. Is monitoring of drinking water quality or wastewater required by law/policy? If so, which actor is required to monitor it and how often (according to the law/policy)?
[]
3. Are there any regulations to control or monitor the quality of groundwater aquifers so that they do not become

DASHBOARD COUNTRY SUMMARY

- Example study – Honduras
- Overview of legislation
 - HRWS in constitution
 - HRHE not
 - Specific water strategies
- Benchmarking scores
 - Used for collating results
- Gaps highlighted

	Mostly included
	More than half
	Partially included
	Few references

26/2021

General Legislation

	Supreme law	Constitution
1.A.1	State organization	Federal
1.A.2	Relationship between international and national law	Dualist
1.A.3	Name of institution possessing regulation-making authority	Congress
1.A.5	Popular consultation as part of governing/legislative process	Yes
1.A.8	Member of a regional integration organization	Yes
5.C.1	Independent National Human Rights Institution (NHRI)	Yes

Water Governance

3.A.1	Right to Water mentioned in Constitution	Yes
3.A.2	Right to Sanitation mentioned in Constitution	Yes
3.A.3	Right to a clean and healthy environment in Constitution	No
3.A.4	A water code or a law specific to water resources	Yes
3.A.5	National strategy, policy, action plan etc. on water and sanitation	Yes
1.A.8	International institution for transboundary water resources	Yes
3.C.7	Priorities in the allocation of water for different uses	Yes

Benchmark Scores¹⁹

Section	Elements included in law	Score
4.A	Availability and Accessibility	Blue
4.B	Quality and Safety	
4.C	Water Pollution Control	
4.D	Affordability	Yellow
4.E	Acceptability	Orange
4.F	Non-Discrimination, Equality, Universal Access	Orange
4.G	Right to Information, transparency	Blue
4.H	Public Participation	
4.I	Accountability, remedies and complaints procedures	
4.J	Sustainability	
	TOTAL	Blue

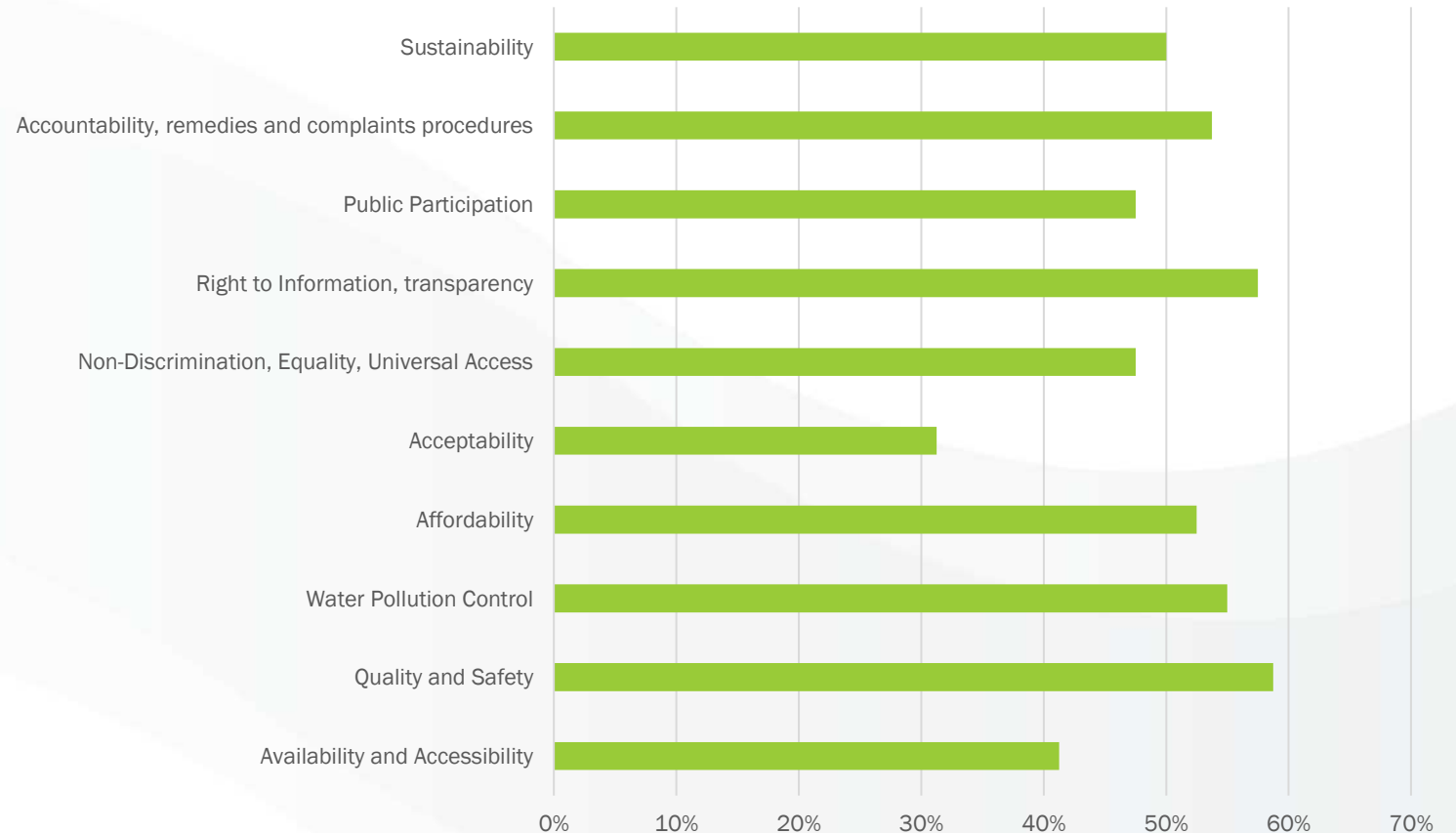
INITIAL RESULTS OVERVIEW

- **The Constitution:**
 - Only 1 out of 3 include water and sanitation expressly
 - 3 out of 4 include the right to a healthy environment
- **What does this mean?**
 - Water and sanitation is given lower political visibility than the environment?
 - Many national governments do not see the importance of protecting these human rights?
 - Can environmental protection be used to protect sources of water for drinking?
 - Can safely managed sanitation and safe disposal of toilet waste support environmental goals?

BENCHMARKING

- Acceptability 30%
- Availability/accessibility 42%
- Non-discrimination 48%
- Public participation 48%

Elements included in law (water, sanitation, environment)



EXTRACT FROM REPORTS

- Reference laws
- Relevant to SDG 6

CHAPTER 4. THE HUMAN RIGHTS TO WATER AND SANITATION & SDG 6 TARGETS ¹² including elements of the Human Right to a Healthy Environment

A. Availability and accessibility (SDG 6.1, 6.2, 6.4)

1. **What laws or regulations ensure that a minimum essential level of water is available to all?**

[No laws specifically ensure the minimum essential level of water available to all. However, the Health Code, Decree Number 90-97, prescribes in the Health and Environment chapter, a section related to Potable Water, establishing that the State, through the Ministry of Health, in coordination with the Municipal Development Institute, and other institutions in the sector, will promote a priority and necessary policy that guarantees access to universal coverage of the population to the drinking water services, with emphasis on the management of the communities themselves, to guarantee the sustainable management of the resource.]

10. **What are the standards/policies on the amount of water to be made available?**

[Please note the Specifications Manual for Monitoring and Control of Water Quality for Human Consumption Ministerial Agreement 523-2013, and the Government Agreement 113-2009, regulating health standards for supply services.]

2. **In cases where water is not available on premises, what mechanisms are in place to ensure collection times do not exceed 30 minutes including wait times and queuing?**
There are no specific regulations on this.

Therefore, the municipal code establishes the responsibility for the service.] In instances where water availability is not continuous, what measures are implemented?

[Government Agreement 113 of 2009, provides that whenever the water supply must be interrupted due to maintenance or repair of any component of the service; the providers of the service must inform the population that will be affected by delivering a notice at least forty-eight hours prior to the interruption. In case the interruption due to causes of force majeure, they must inform immediately after the event that motivates it has happened.]

4. **How is water supply availability ensured for marginalized and vulnerable groups, e.g., economically challenged or less developed rural areas?**

Art. 4 of the Constitution provides for equality and non-discrimination in general, when it provides: "In Guatemala all human beings are free and equal in dignity and rights. Men and women, whatever their marital status, have equal opportunities and responsibilities. No person may be subjected to servitude or any other condition that impairs his dignity. Human beings must observe fraternal conduct among themselves."

Also, with regard to the indigenous population, the Urban and Rural Development Councils Act, Decree No. 11-2002, indicates that the Development Councils System is the main means of

LINK TO ENVIRONMENTAL PROTECTION

- Consideration of aspects linking drinking water, sanitation and environmental health, such as:
 - Are there any standards that protect healthy natural water bodies to maintain sustainable sources of water for drinking?
 - Do groundwater sources and aquifers have an allocation of water volume protected from extraction to ensure long term sustainability?
 - Are there any regulations to control or monitor the quality of groundwater aquifers so that they do not become contaminated?



INCLUSIVE DECISION MAKING



POLICIES FOR INCLUSIVE DECISION-MAKING IN A CLIMATE ADAPTIVE WORLD

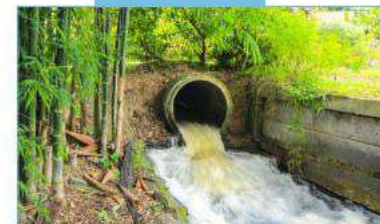
A collaborative review of water resources
management legal good practices in 16 countries



THIS PAPER ATTEMPTS TO EXAMINE HOW COUNTRIES CAN
LEGISLATIVELY SAFEGUARD ESSENTIAL ELEMENTS OF THE HUMAN
RIGHT TO WATER IN WORSENING CLIMATE CONDITIONS, AND WHAT
THIS MEANS FOR SERVICE PROVIDERS AND BUSINESSES.

This briefing paper highlights conclusions from a
collaborative analysis and publication produced
by Human Right 2 Water, the Inter-American
Development Bank, Nestlé, and the Water Research
Commission

In a world that is struggling daily with climate change and
dwindling good quality water resources, we need to find a
more holistic approach to water management that considers
all the Sustainable Development Goals. It is the responsibility
of all authorities, businesses and citizens to work with
communities to find solutions for the dwindling of our water
resources having regard to society and the environment.



LINK TO FULL REPORT:



KEY RECOMMENDATIONS

Non-Discrimination

- Legal measures need to be taken to protect the vulnerable

Public Participation

- Meaningful Participation of all relevant stakeholders needs to be actively encouraged through law and policy

Access to Information

- For water resources should be simple, easily accessible and in a format that communities can access

Accountability

- The grievance and remedy process should encourage participation without retaliation

Sustainability

- Nature-based solutions should always be considered as part of the solution for long term sustainability

POTENTIAL USES FOR THIS DATA

- **Advocacy**, encouraging interest
- **Breaking silos between ministries**
 - Country programmes
 - National policy design
- **Demonstration Programmes**
 - Pilot project
 - Monitoring of human rights indicators



AICHR

ASEAN Intergovernmental
Commission on Human Rights

October 2017 consultation on
human rights to water and
sanitation

10 ASEAN countries
National Legal Reports

ROADMAP FOR PARLIAMENTARIANS

Baseline Analysis

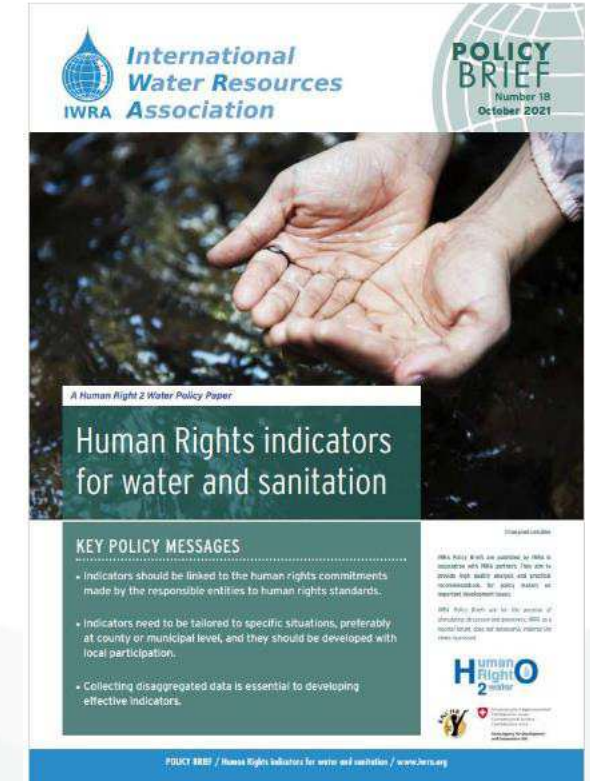
- Legal Gap Analysis

Stakeholder Engagement

- Participation to understand challenges

Monitoring

- Human Rights Based Indicators





THANK YOU FOR LISTENING

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