

**Independent Expert on the issue of human rights obligations
related to access to safe drinking water and sanitation**

**‘GOOD PRACTICES’ RELATED TO ACCESS TO
SAFE DRINKING WATER AND SANITATION**



Questionnaire

**February, 2010
Geneva**

Introduction

The Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Ms. Catarina de Albuquerque, has been mandated by the Human Rights Council in 2008 to:

- Further clarify the content of human rights obligations related to access to safe drinking water and sanitation;
- Make recommendations that could help the realization of the Millennium Development Goals (MDG), and particularly of the Goal 7;
- Prepare a compendium of good practices related to access to safe drinking water and sanitation.

While the work of human rights bodies has often focused on the violations of human rights, the Independent Expert welcomes the opportunity to identify good practices that address the question of how human rights obligations related to sanitation and water can be implemented.

Methodology of the Good Practices consultation process

In a first step, the Independent Expert undertook to determine criteria for identifying ‘good practices’. As ‘good’ is a subjective notion, it seemed critical to first elaborate criteria against which to judge a practice from a human rights perspective, and then apply the same criteria to all practices under consideration. Such criteria for the identification of good practices were discussed with various stakeholders at a workshop convened by the Independent Expert in Lisbon in October 2009. The outcome was the definition of 10 criteria, 5 of which are normative criteria (*availability, accessibility, quality/safety, affordability, acceptability*), and 5 are cross-cutting ones (*non-discrimination, participation, accountability, impact, sustainability*). The Independent Expert and the stakeholders started testing the criteria, but believe that the process of criteria testing is an ongoing one: the criteria should prove their relevance as stakeholders suggest examples of good practices.

After this consultation and the consolidation of the criteria, the Independent Expert wants to use these to identify good practices across all levels and sectors of society. To that end, she will organize stakeholder consultations with governments, civil society organisations, national human rights institutions, development cooperation agencies, the private sector, UN agencies, and perhaps others. By bringing people from the same sector together to talk about good practices related to human rights, water and sanitation, she hopes to facilitate exchange of these good practices. In order to prepare the consultations through the identification of potential good practices, the present questionnaire has been elaborated. The consultations will be held in 2010 and 2011. Based on the answers to this questionnaire, and the stakeholder consultations, the Independent Expert will prepare a report on good practices, to be presented to the Human Rights Council in 2011.

The Good Practices Questionnaire

The questionnaire is structured following the normative and cross-cutting criteria, mentioned above; hence the Independent Expert is looking for good practices in the fields of sanitation and water **from a human rights perspective**. Therefore, the proposed practices do not only have to be judged ‘good’ in light of at least one normative criterion depending on their relevance to the practice in question (*availability, accessibility, quality/safety, affordability, acceptability*), but also in view of all the cross-cutting criteria (*non-discrimination,*

participation, accountability, impact, sustainability). At a minimum, the practice should not undermine or contradict any of the criteria.

Explanatory note: Criteria

Criteria 1-5: Normative criteria (availability, accessibility, quality/safety, affordability, acceptability). All these criteria have to be met for the full realization of the human rights to sanitation and water, but a good practice can be a specific measure focussing on one of the normative criterion, and not necessarily a comprehensive approach aiming at the full realization of the human rights. Hence, not all the criteria are always important for a given practice. E.g., a pro-poor tariff structure can be judged very good in terms of the affordability criterion, whilst the quality-criterion would be less relevant in the context of determining whether that measure should be considered a good practice.

Criteria 6-10: Cross-cutting criteria (non-discrimination, participation, accountability, impact, sustainability). In order to be a good practice from a human rights perspective, all of these five criteria have to be met to some degree, and at the very least, the practice must not undermine or contradict these criteria. E.g., a substantial effort to extend access to water to an entire population, but which perpetuates prohibited forms of discrimination by providing separate taps for the majority population and for a marginalized or excluded group, could not be considered a good practice from a human rights perspective.

Actors

In order to compile the most critical and interesting examples of good practices in the field of sanitation and water from a human rights perspective, the Independent Expert would like to take into consideration practices carried out by a **wide field of actors**, such as *States, regional and municipal authorities, public and private providers, regulators, civil society organisations, the private sector, national human rights institutions, bilateral development agencies, and international organisations.*

Practices

The Independent Expert has a broad understanding of the term “practice”, encompassing both policy and implementation: Good practice can thus cover **diverse practices** as, e.g., *legislation (international, regional, national and sub-national), policies, objectives, strategies, institutional frameworks, projects, programmes, campaigns, planning and coordination procedures, forms of cooperation, subsidies, financing mechanisms, tariff structures, regulation, operators’ contracts, etc.* Any activity that enhances people’s enjoyment of human rights in the fields of sanitation and water or understanding of the rights and obligations (without compromising the basic human rights principles) can be considered a good practice.

The Independent Expert is interested to learn about practices which advance the realization of human rights as they relate to safe drinking water and sanitation. She has explicitly decided to focus on “good” practices rather than “best” practices, in order to appreciate the fact that ensuring full enjoyment of human rights can be a process of taking steps, always in a positive direction. The practices submitted in response to this questionnaire may not yet have reached their ideal goal of universal access to safe, affordable and acceptable sanitation and drinking water, but sharing the steps in the process towards various aspects of that goal is an important contribution to the Independent Expert’s work.

Please describe a good practice **from a human rights perspective** that you know well in the field of

- drinking water; and/or
- sanitation

Please relate the described practice to the ten defined criteria. An explanatory note is provided for each of the criteria.

Description of the practice:

Name of the practice: Integrated Watershed Management (IWM), also known as Integrated Water Resources Management (IWRM).

Aim of the practice: Engage stakeholders in planning and implementation of beneficial practices and decision-making to protect water quality sources, minimize pollution risk, improve sewage treatment, and equitably distribute water among community residents.

Target group(s): All stakeholders within a defined watershed, including rural and urban residents, industry, NGOs, private foundations, local, regional, and national governments.

Partners involved: As listed under “Target group(s).”

Duration of practice: The application of IWM in its most comprehensive (with full stakeholder participation and consideration of all relevant issues related to watershed sustainability, including equity), is quite nascent – with only a limited number of truly progressive examples.

Financing (short/medium/long term): Ideally, local and regional governments provide adequate technical and financial support. However this is rare, and private sources (both industrial and philanthropic) have played important supporting roles – as have national governments.

Brief outline of the practice: All stakeholders within a watershed community are invited to meaningfully participate in a process of issue identification and goal-setting – together with whatever authorities are responsible for addressing water quality and sanitation issues (if existent). This process is followed by a selection of prioritized options for how to address the issues and achieve the goals. Practitioners and decision-

makers focused on achieving watershed sustainability are either a) established if needed or b) convinced to enshrine these goals in their operations.

There have been many failed attempts and it may be tenuous to suggest IWM is relevant to human rights, but this approach is ultimately the only way to ever ensure the provision of safe drinking water, effective sanitation, and related access, equity, safety, and well-being challenges related to natural resources management.

1. How does the practice meet the criterion of availability?

Explanatory note: Availability

Availability refers to sufficient quantities, reliability and the continuity of supply. Water must be continuously available in a sufficient quantity for meeting personal and domestic requirements of drinking and personal hygiene as well as further personal and domestic uses such as cooking and food preparation, dish and laundry washing and cleaning. Individual requirements for water consumption vary, for instance due to level of activity, personal and health conditions or climatic and geographic conditions. There must also exist sufficient number of sanitation facilities (with associated services) within, or in the immediate vicinity, of each household, health or educational institution, public institution and place, and the workplace. There must be a sufficient number of sanitation facilities to ensure that waiting times are not unreasonably long.

Answer: IWM can help provide continuous supplies of quality water through the identification and protection of critical source water areas and the determination of sustainable water utilization rates. IWM can also help identify sanitation risks, mitigation and management options, and innovative water quality opportunities (e.g. through the restoration of natural ecosystem functions).

2. How does the practice meet the criterion of accessibility?

Explanatory note: Accessibility

Sanitation and water facilities must be physically accessible for everyone within, or in the immediate vicinity, of each household, health or educational institution, public institution and the workplace. The distance to the water source has been found to have a strong impact on the quantity of water collected. The amount of water collected will vary depending on the terrain, the capacity of the person collecting the water (children, older people, and persons with disabilities may take longer), and other factors. There must be a sufficient number of sanitation and water facilities with associated services to ensure that collection and waiting times are not unreasonably long. Physical accessibility to sanitation facilities must be reliable at day and night, ideally within the home, including for people with special needs. The location of public sanitation and water facilities must ensure minimal risks to the physical security of users.

Answer: A comprehensive IWM process could readily identify optimal locations and networks for water supply distribution and the collection and treatment of sewage and other wastewater. Stakeholders in the watershed community would outline their goals and provide local knowledge regarding ideal locations based on daily need and physical environmental realities.

3. How does the practice meet the criterion of affordability?

Explanatory note: Affordability

Access to sanitation and water facilities and services must be accessible at a price that is affordable for all people. Paying for services, including construction, cleaning, emptying and maintenance of facilities, as well as treatment and disposal of faecal matter, must not limit people's capacity to acquire other basic goods and services, including food, housing, health and education guaranteed by other human rights. Accordingly, affordability can be estimated by considering the financial means that have to be reserved for the fulfilment of other basic needs and purposes and the means that are available to pay for water and sanitation services.

Charges for services can vary according to type of connection and household income as long as they are affordable. Only for those who are genuinely unable to pay for sanitation and water through their own means, the State is obliged to ensure the provision of services free of charge (e.g. through social tariffs or cross-subsidies). When water disconnections due to inability to pay are carried out, it must be ensured that individuals still have at least access to minimum essential levels of water. Likewise, when water-borne sanitation is used, water disconnections must not result in denying access to sanitation.

Answer: The engagement and participation of all stakeholders within a watershed (as the ultimate source of water supplies and sink of waste effluent) through an IWM process represents the best means of building broad community support for common goals related to water supply and waste treatment. This support in turn can translate into a unified search for the most cost-effective solutions and acceptance of the ongoing costs of operation and maintenance. The process may also result in the identification of innovative options which may be widely accepted within the community.

4. How does the practice meet the criterion of quality/safety?

Explanatory note: Quality/Safety

Sanitation facilities must be hygienically safe to use, which means that they must effectively prevent human, animal and insect contact with human excreta. They must also be technically safe and take into account the safety needs of peoples with disabilities, as well as of children. Sanitation facilities must further ensure access to safe water and soap for hand-washing. They must allow for anal and genital cleansing as well as menstrual hygiene, and provide mechanisms for the hygienic disposal of sanitary towels, tampons and other menstrual products. Regular maintenance and cleaning (such as emptying of pits or other places that collect human excreta) are essential for ensuring the sustainability of sanitation facilities and continued access. Manual emptying of pit latrines is considered to be unsafe and should be avoided.

Water must be of such a quality that it does not pose a threat to human health. Transmission of water-borne diseases via contaminated water must be avoided.

Answer: Stakeholders in the watershed community would outline their goals and provide local knowledge regarding ideal locations based on daily need and physical environmental realities. A comprehensive IWM process could readily identify optimal locations and networks for water supply distribution and the collection and treatment of sewage and other wastewater.

5. How does the practice meet the criterion of acceptability?

Explanatory note: Acceptability

Water and sanitation facilities and services must be culturally and socially acceptable. Depending on the culture, acceptability can often require privacy, as well as separate facilities for women and men in public places, and for girls and boys in schools. Facilities will need to accommodate common hygiene practices in specific cultures, such as for anal and genital cleansing. And women's toilets need to accommodate menstruation needs.

In regard to water, apart from safety, water should also be of an acceptable colour, odour and taste. These features indirectly link to water safety as they encourage the consumption from safe sources instead of sources that might provide water that is of a more acceptable taste or colour, but of unsafe quality.

Answer: Community support developed around common goals can translate into a unified search for the most cost-effective solutions and acceptance of the ongoing costs of operation and maintenance. The process may also result in the identification of innovative options which may be widely accepted within the community. The engagement and participation of all stakeholders within a watershed (as the ultimate source of water supplies and sink of waste effluent) through an IWM process represents the best means of building broad community support for common goals related to water supply and waste treatment.

6. How does the practice ensure non-discrimination?

Explanatory note: Non-discrimination

Non-discrimination is central to human rights. Discrimination on prohibited grounds including race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status or any other civil, political, social or other status must be avoided, both in law and in practice.

In order to address existing discrimination, positive targeted measures may have to be adopted. In this regard, human rights require a focus on the most marginalized and vulnerable to exclusion and discrimination. Individuals and groups that have been identified as potentially vulnerable or marginalized include: women, children, inhabitants of (remote) rural and deprived urban areas as well as other people living in poverty, refugees and IDPs, minority groups, indigenous groups, nomadic and traveller communities, elderly people, persons living with disabilities, persons living with HIV/AIDS or affected by other health conditions, people living in water scarce-regions and sanitation workers amongst others.

Answer: By helping all participants understand that they share common goals related to water supply and sanitation, the IWM process offers an opportunity for reducing exclusion and discrimination – and building community cohesiveness. The engagement and participation of all stakeholders within a watershed (as the ultimate source of water supplies and sink of waste effluent) through an IWM process represents the best means of building broad community support for common goals related to water supply and waste treatment.

7. How does the practice ensure active, free and meaningful participation?

Explanatory note: Participation

Processes related to planning, design, construction, maintenance and monitoring of sanitation and water services should be participatory. This requires a genuine opportunity to freely express demands and concerns and influence decisions. Also, it is crucial to include representatives of all concerned individuals, groups and communities in participatory processes.

To allow for participation in that sense, transparency and access to information is essential. To reach people and actually provide accessible information, multiple channels of information have to be used. Moreover, capacity development and training may be required – because only when existing legislation and policies are understood, can they be utilised, challenged or transformed.

Answer: Full participation of all stakeholders – supported by open access to information and ongoing transparency – is a fundamental feature of effective IWM.

8. How does the practice ensure accountability?

Explanatory note: Accountability

The realization of human rights requires responsive and accountable institutions, a clear designation of responsibilities and coordination between different entities involved. As for the participation of rights-holders, capacity development and training is essential for institutions. Furthermore, while the State has the primary obligation to guarantee human rights, the numerous other actors in the water and sanitation sector also should have accountability mechanisms. In addition to participation and access to information mentioned above, communities should be able to participate in monitoring and evaluation as part of ensuring accountability.

In cases of violations – be it by States or non-State actors –, States have to provide accessible and effective judicial or other appropriate remedies at both national and international levels. Victims of violations should be entitled to adequate reparation, including restitution, compensation, satisfaction and/or guarantees of non-repetition.

Human rights also serve as a valuable advocacy tool in using more informal accountability mechanisms, be it lobbying, advocacy, public campaigns and political mobilization, also by using the press and other media.

Answer: Another key element of effective IWM relates to ongoing performance monitoring. In addition to tracking the achievement of environmental quality goals, an IWM process could also include the measurement of indicators related to human rights, including equity, access, affordability, etc.

9. What is the impact of the practice?

Explanatory note: Impact

Good practices – e.g. laws, policies, programmes, campaigns and/or subsidies - should demonstrate a positive and tangible impact. It is therefore relevant to examine the degree to which practices result in better enjoyment of human rights, empowerment of rights-holders and accountability of duty bearers. This criterion aims at capturing the impact of practices and the progress achieved in the fulfilment of human rights obligations related to sanitation and water.

Answer: An IWM planning and management process represents the best way to achieve interrelated goals within a natural ecosystem framework in support of watershed sustainability and community health. Applying this framework in support of mutual objectives related to human rights is possible and represents exciting potential towards the achievement of sustainable development.

10. Is the practice sustainable?

Explanatory note: Sustainability

The human rights obligations related to water and sanitation have to be met in a sustainable manner. This means good practices have to be economically, environmentally and socially sustainable. The achieved impact must be continuous and long-lasting. For instance, accessibility has to be ensured on a continuous basis by adequate maintenance of facilities. Likewise, financing has to be sustainable. In particular, when third parties such as NGOs or development agencies provide funding for initial investments, ongoing financing needs for operation and maintenance have to be met for instance by communities or local governments. Furthermore, it is important to take into account the impact of interventions on the enjoyment of other human rights. Moreover, water quality and availability have to be ensured in a sustainable manner by avoiding water contamination and over-abstraction of water resources. Adaptability may be key to ensure that policies, legislation and implementation withstand the impacts of climate change and changing water availability.

Answer: IWM has been recognized by the Millennium Assessment (Wetlands and Water Synthesis) as one of the most logical approaches to support sustainability planning and implementation. It has also been demonstrated as a useful method for applying an adaptive management approach.

Final remarks, challenges, lessons learnt

IWRM should be considered as a good practice for achieving water supply, sanitation, and human rights objectives. Its potential has not been fully realized by any means.

Submissions

In order to enable the Independent Expert to consider submissions for discussion in the stakeholder consultations foreseen in 2010 and 2011, all stakeholders are encouraged to submit the answers to the questionnaire at their earliest convenience and no later than 30th of June 2010.

Questionnaires can be transmitted electronically to iewater@ohchr.org (encouraged) or be addressed to

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Please include in your submissions the name of the organization submitting the practice, as well as contact details in case follow up information is sought.

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The Independent Expert would like to thank you for your efforts!

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