

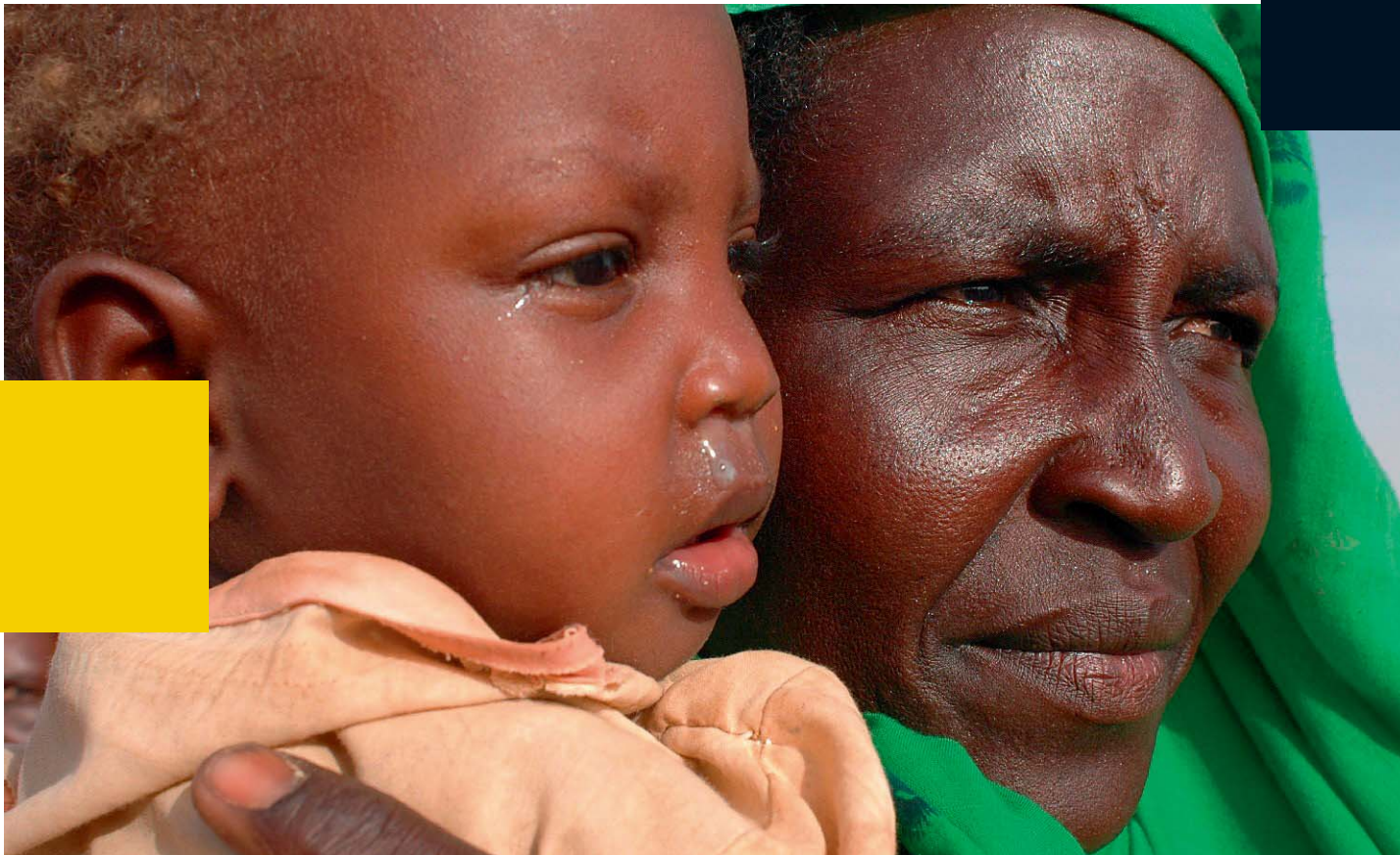


Federal Ministry
for Economic Cooperation
and Development

TOPICS 195

Applying human rights in practice

Fact sheets on a human rights-based approach in
development cooperation





Federal Minister for Economic Cooperation and Development
Heidemarie Wieczorek-Zeul

All over the world, a determining factor in people's everyday lives is the extent to which their human rights are respected, protected and upheld. Access to adequate food and safe drinking water is just as much a human right as the right to the highest attainable standard of health, access to education or the right of association, which strengthens participation in civil society. The realisation of human rights as part of development cooperation is therefore key to reducing poverty on a sustainable basis.

That is why, in its Action Plan on Human Rights 2008-2010, the German Ministry for Economic Cooperation and Development has reaffirmed its commitment firmly to incorporate a human rights-based approach in its development policies. This means systematically gearing the entire development policy agenda towards human rights standards and principles. Thus, self-determination, non-discrimination and equal opportunities, empowerment and participation, and transparency and accountability have become the guiding principles for all our development measures.

This human rights-based approach is based on the Universal Declaration of Human Rights, the United Nations human rights conventions, the core labour standards formulated by the International Labour

Organization (ILO) and, in particular, the regional conventions on human rights. These international statements of commitment to human rights establish minimum human rights standards which we and most of our partners have pledged to uphold, and which we must apply in practice in our development activities.

Development policy agendas which follow a human rights-based approach are becoming more prevalent because they focus on reducing poverty in the developing countries in a sustainable way that is geared to the needs of the individual. As a consequence, development cooperation with a human rights-based approach is being implemented in a growing number of sectors as well as countries.

This "BMZ Topics" folder is intended as an aid to that process. The fact sheets it contains on how to apply a human rights-based approach in the priority areas of German development policy will help to provide a guideline for development practitioners in their work. Only if human rights are taken into account at all levels can we achieve sustainable results in our partner countries as well as at regional and international level.

Heidemarie Wieczorek-Zeul

A brief summary of human rights

(unofficial summarised version)

International Covenant on Civil and Political Rights (ICCPR)

The ICCPR came into force in 1976 and is legally binding for the States party to it. A Human Rights Committee, set up in accordance with Article 28 of the Covenant, monitors its implementation. The rights guaranteed by the ICCPR include, amongst others:

- Article 2:** The right to effective remedy for any person whose rights or freedoms as recognized in the Covenant are violated
- Article 3:** The equal rights of men and women
- Article 6:** The right to life
- Article 7:** The prohibition of torture and of cruel, inhuman or degrading treatment or punishment
- Article 8:** Freedom from slavery and servitude; prohibition of compulsory labour
- Article 9:** The right to liberty and security of person; protection against arbitrary arrest or detention
- Article 12:** The right to liberty of movement and freedom to choose one's residence
- Article 14:** The right to equality before courts and tribunals; the right to be presumed innocent until proven guilty and the right to a fair hearing before an independent tribunal
- Article 17:** The right to privacy and to protection from arbitrary or unlawful interference in one's privacy
- Article 18:** The right to freedom of thought, conscience and religion
- Article 19:** The right to hold opinions without interference, and the right to freedom of expression
- Article 20:** The prohibition of any propaganda for war and of advocacy of national, racial or religious hatred
- Article 21:** The right of peaceful assembly
- Article 22:** The right to freedom of association with others
- Article 23:** The right to marry and found a family
- Article 24:** The right of children to receive protection by the State without discrimination
- Article 25:** The right to take part in the conduct of public affairs; the right to vote and to be elected
- Article 26:** The right to equality before the law and to equal protection of the law
- Article 27:** The rights of ethnic, religious or linguistic minorities

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

The ICESCR came into force in 1976 and is legally binding for the States party to it. The Committee on Economic, Social and Cultural Rights, founded on the basis of Resolution 1985/17 of the United Nations Economic and Social Council, monitors its implementation. The rights guaranteed by the ICESCR include, amongst others:

- Artikel 1:** The right of all peoples to self-determination
- Article 2:** The right to enjoy the rights enunciated in the Covenant without discrimination
- Article 3:** The equal rights of men and women
- Article 6:** The right to work
- Article 7:** The right to enjoy just and favourable conditions of work
- Article 8:** The right to form trade unions and join a trade union of choice; the right to go on strike
- Article 9:** The right to social security
- Article 10:** The right to family and married life; the protection of children and young people
- Article 11:** The right to an adequate standard of living, including adequate food, clothing and housing
- Article 12:** The right to the highest attainable standard of physical and mental health
- Article 13:** The right to education
- Article 14:** The principle of compulsory primary education free of charge for all
- Article 15:** The right to take part in cultural life and enjoy the benefits of scientific progress

A Human Rights-Based Approach in German Development Cooperation

What does a human rights-based approach offer to German development cooperation?

Human rights offer internationally acknowledged and clearly defined guidelines for the design of development policy. The international human rights treaties have been ratified by Germany and the majority of its development partners, and constitute a legally binding reference for policy dialogue with our partners and other donors. Human rights contain practice-oriented minimum standards for programme design, implementation and evaluation. They enrich quantitative development goals such as the Millennium Development Goals (MDGs) by providing qualitative inputs.

In the Accra Agenda for Action, states have pledged to integrate human rights more consistently and systematically into all policies geared towards greater effectiveness of development cooperation: human rights contribute to harmonization of donor policies, and assist in improving accountability relations between the state and its residents and between partners and donors. They can be used as benchmarks in measuring progress and impact.

With the adoption of a human rights-based approach (HRBA), the German Federal Ministry for Economic Cooperation and Development (BMZ) has pledged systematically to implement all human rights and human rights principles in its sector and country strategies. The HRBA puts the focus on the structural causes of poverty and the underlying unequal distribution of resources and societal power. It thereby promotes the sustainable reduction of poverty, strengthens good governance and contributes to conflict transformation.

What does a human rights-based approach imply for German development cooperation?

The HRBA leads to a paradigm shift: erstwhile “target groups” and “people in need” are now recognized as holders of statutory entitlements, partner states’ institutions as duty bearers. Both groups are strengthened in



Citizens participate in planning, photo: GTZ/Silke Irmscher

their respective role: with more rights awareness, individuals and groups become empowered to claim their human rights successfully. In turn, state actors increase their capacity to accept and fulfil their human rights obligations - access barriers to basic services may be removed or state institutions may submit to more scrutiny and control, thus improving accountability of state action. The BMZ committed to this paradigm shift in its [Development Policy Action Plan on Human Rights 2008-2010](#).

Orientation towards human rights standards and human rights reference documents

Human rights-based development cooperation explicitly refers to international and regional human rights treaties. The United Nations (UN) human rights treaties ratified by Germany are especially important for German development cooperation. They include, among others, the International Covenant on Civil and Political Rights ([ICCPR](#)), the International Covenant on Economic, Social and Cultural Rights ([ICESCR](#)) and the treaties on the rights of women, children and persons with disabilities. Their provisions have been interpreted by the respective treaty bodies in the so-called General Comments. The latter delineate the content of human rights and make them practice-oriented, for example by setting specific quantitative and qualitative criteria regarding water supply or education systems.

Implementation of human rights principles

Human rights-based development cooperation promotes non-discrimination and equality of opportunity, participation and empowerment as well as transparency and accountability. These principles are based on human rights and the respective obligations, and thus their application is binding.

What does a human rights-based approach call for in practice?

- > Challenges and progress in relation to political, civil, economic, social and cultural human rights are brought up in policy dialogue with the partner government, and influence the goals and strategies of German development cooperation;
- > Development policy measures do not compromise human rights. Therefore partner institutions and German agencies assess the prospective human rights impact and establish respective monitoring systems; programmes are adapted accordingly or dropped, if need be;
- > Development cooperation programmes focus on impact for disadvantaged groups - that is on tangible results with respect to their living conditions and capabilities. This may be achieved through direct support (for example by strengthening their capacity to self-organize or by expanding social security systems) and through indirect support, for example by changing framework conditions such as legislation or tariff systems;
- > Development cooperation prioritizes underserved and resource-poor regions such as remote rural areas or informal urban settlements;
- > Donors use human rights standards and recommendations of international expert bodies (among them the Concluding Observations of the UN treaty bodies and recommendations by UN Special Rapporteurs) as a frame of reference for donor harmonization, for example in Joint Assistance Strategies;
- > State institutions are supported in their efforts to expand monitoring and complaints mechanisms. Representatives of marginalized groups and civil society organizations are strengthened in their capacity to participate in and influence political decision-making;
- > Economic players are given support to help them observe core labour standards; state institutions are encouraged to develop legally binding norms;
- > Partner institutions are given assistance in the establishment of differentiated monitoring and evaluation systems that allow for collecting disaggregated data.

Further Reading

BMZ, Development Policy Action Plan on Human Rights 2008 - 2010

<http://www.bmz.de/en/service/infothek/fach/konzepte/konzept167.pdf>

Office of the High Commissioner for Human Rights 2008, Claiming the Millennium Development Goals: A Human Rights Approach

http://www2.ohchr.org/SPdocs/Claiming_MDGs_en.pdf

German Agency for Technical Cooperation (GTZ), Human Rights

<http://www.gtz.de/en/presse/14639.htm>

A Human Rights-Based Approach in the Education Sector

What do human rights offer to the education sector?

The human right to education offers an internationally acknowledged and legally binding frame of reference. It contains clear guidelines for the focus and design of development cooperation in the education sector. Implementing human rights obligations advances the achievement of the Millennium Development Goals (MDGs) particularly relevant for the education sector, i.e. realization of universal primary education and gender equality (MDGs 2 and 3). The right to education gives a qualitative perspective to activities geared to reaching the MDGs: it shifts the focus to particularly disadvantaged persons and groups and to the quality of education. Empowerment, non-discrimination and accountability are key human rights principles, and thus important for a policy-oriented view towards the education sector. The inclusion of human rights principles in education reforms is essential, and can also be used to reinforce impact in other sectors (such as democratization, peace-building, good governance and economic development).

What is the human right to education?

The human right to education is established in articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights ([ICESCR](#)). It is also found in other human rights treaties: it is central to the Convention on the Rights of the Child and to the conventions on the rights of women and the rights of persons with



Learning, even under most difficult conditions,
photo: GTZ/Florian Kopp

disabilities. In its [General Comment No. 13](#) of 1999, the United Nations Committee on Economic, Social and Cultural Rights, which monitors the implementation of the ICESCR, established four core elements (see below) as the substance of the human right to education.

Since 1998 the United Nations Special Rapporteur on the Right to Education has further defined the right to education during country missions and in regular reports on the subject.

Essential Features

Availability	Sufficient number of functioning educational institutions with access to safe drinking water and sanitation facilities; adequately trained teachers who receive domestically competitive salaries; adequate teaching and learning materials; free primary education
Accessibility	Access to educational institutions for all without discrimination: <ul style="list-style-type: none"> > geographical and physical accessibility within safe physical reach for all, including disadvantaged persons and groups (such as persons with disabilities or girls from poor families) > affordability for all, particularly for disadvantaged persons and groups
Acceptability	Form and substance of education must be student-centred, relevant, culturally appropriate and of good quality with respect to curricula, teaching methods, teaching and learning materials, and teaching language
Adaptability	Education has to be flexible so it can adapt to the changing needs of societies and respond to the needs of students in their diverse social and cultural settings

Frequent misunderstandings

False	True
The right to education requires that the state provides all learning opportunities from primary to university education directly and free of charge.	Primary education must be compulsory and available free of charge to all; where this is not case, the state must undertake targeted steps to achieve this. Regarding the various forms of secondary and higher education, states are obliged to introduce free education progressively.
A state commits a human rights violation as long as not all persons living within its territory (children and adults) have access to education.	A state compromises the right to education if it does not undertake targeted steps to the maximum of its available resources towards the full realization of the right to education for all, in particular for disadvantaged or discriminated groups.
The right to education exclusively addresses children as rights holders.	The right to education considers children, adolescents and adults as rights holders. It thus encompasses education at primary, secondary, polytechnic/vocational and university level, and adult education. It also recognizes the rights of teachers and legal guardians.
If there is no illiteracy in a country, the right to education has been fulfilled.	Fulfilling the right to education means enabling all persons to acquire basic qualifications such as literacy, as well as the competencies needed for informed individual agency and social responsibility.

What does the human right to education call for in practice?

- > Prioritization of access to and completion of primary education for all;
- > Focus on groups who are excluded from education opportunities or experience obstacles when accessing education (such as girls, persons with disabilities, poor people, refugees, street children);
- > Elimination of direct fees for primary education and reduction of indirect fees (for books, uniforms, examinations etc.); introduction of cash transfers or scholarships to compensate, where necessary, for the loss of household income generated by child labour;
- > Flexible teaching methods and hours to increase accessibility for children and adolescents who live in remote areas or need to work;
- > Promotion of teachers' rights through appropriate systems of payment, promotion and training, and by protecting their rights at work and their freedom to associate;
- > Gender-sensitivity in education policies (for example, training of teachers of both sexes for all levels of schooling), as well as in learning content and teaching methods;
- > Support for curricula and school rules enabling a non-violent teaching environment of good quality;
- > Integration of human rights education as well as human rights relevant topics (such as political participation, gender equality, social diversity/non-discrimination, harmful traditional practices) in curricula and in teacher training;
- > Where appropriate, promotion of intercultural, bilingual education;
- > Participation of legal guardians and students in school management and in issues of education quality; greater horizontal accountability of educational institutions, for example through school contracts, audits, etc.;
- > Improved participation of disadvantaged groups in educational reforms and curricula development, for example by expanding regional and national bodies for popular participation in determining education policies.

Further reading

UN Committee on Economic, Social and Cultural Rights 1999, General Comment No. 13, the right to education (E/C.12/1999/10)

[http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.1999.10.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/E.C.12.1999.10.En?OpenDocument)

UN Special Rapporteur on the Right to Education

<http://www2.ohchr.org/english/issues/education/rapporteur/index.htm>

UNESCO, Portal on the right to education

http://portal.unesco.org/education/en/ev.php-URL_ID=9019&URL_DO=DO_TOPIC&URL_SECTION=201.html

A Human Rights-Based Approach in Support of Democracy, Civil Society and Public Administration

Decentralization and Municipal Development

What do human rights offer to decentralization and municipal development?

Human rights provide an internationally acknowledged, precise and practice-oriented frame of reference for decentralization processes and the design of policies on the local level. They set out every citizen's concrete entitlement to participate in political decision-making and to access public services that fulfil human rights-based needs such as water, food, and health. Moreover, human rights provide a qualitative perspective on the Millennium Development Goal to reduce extreme poverty and hunger (MDG 1) – achieving this goal depends not only on the nation state but also on those in power at the sub-national level of government.

Human rights-based decentralization and municipal development strengthens cross-sectoral impact and coherence: the basic tenets of good governance can be deduced from human rights and thus be put in the context of a legally binding framework. The principle of non-discrimination and the right to participate in public affairs are a legal basis for the promotion and inclusion of disadvantaged groups. Hence, they contribute to eradicating poverty and achieving gender equality. Furthermore, human rights help to analyse the root causes of crisis and conflict, and aim for a sustainable, peaceful change of existing unequal power relations and resource allocations.

What human rights aim for specifically is detailed in the General Comments to the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. Defined by the UN expert committees that monitor treaty implementation, the General Comments give important suggestions on national and local policy design in different sectors.



Citizens' debate in Nepal, photo: GTZ

What do human rights imply for decentralization and municipal development?

Everyday life in municipalities provides obvious examples for the indivisibility and interdependence of human rights: the human rights to food, adequate housing, health and education contain benchmarks for the design of the respective basic services; freedom of speech and freedom of association entitle persons to gather information and to organize themselves in order to claim these rights from local state institutions. Along with the human rights to participate in the conduct of public affairs and to access administrative and judicial remedial mechanisms, these are the prerequisites for a legal framework that enables the population to control state action effectively.

Under human rights law, the state is obliged to account for the implementation of human rights on all levels. This obligation relates to its lawmaking, administrative measures and judicial decisions. How state institutions implement their obligations is most easily monitored on the local level, since the relationship between citizens and the state is more immediate there than on the national level. Locally, policies can be oriented

closely towards citizens' basic needs; misconduct and corruption, and their causes, are likely to be much more traceable at local level than at the national one.

If decentralized government and administration are empowered with the necessary competencies and obligations, they may put into place targeted policies to counterbalance existing gender-specific, ethnic or social discrimination regarding access to resources and basic services. Such policies will also contribute to conflict transformation.

For that purpose, local level capacities for responsible and accountable governance must be strengthened. In addition, opportunities for disadvantaged social groups to participate must be secured through the respective design of the legal framework and participatory processes on the local level (examples include gender-differentiated citizen budgeting, human rights budgeting or human rights-based public expenditure tracking). While still challenging, the monitoring of policies and strategies is easier at the local level but will still require disaggregated data to examine whether set goals of supporting disadvantaged social groups or regions have been achieved.

What do human rights call for in practice?

- > Specific priorities when expanding public services are to strengthen capabilities for service delivery in underserved areas (for example informal settlements, remote rural areas) and targeted inclusion of marginalized regions and groups; when privatizing public services, one priority must be to secure compatibility with human rights obligations through regulation and monitoring;
- > Strengthened accountability through the design of a respective legal framework for decentralization which secures municipal competencies, supports incentive systems for municipalities, safeguards participation (for example, by means of a quota-system for women or minorities), reforms public service to operate on the basis of clear responsibilities and coherence;
- > Accountable behaviour which institutionalizes participation as well as complaints and monitoring mechanisms on the local level in the realm of public affairs and services, particularly in public procurement with a view to avoiding corruption; strengthens state capacity to be responsive to the interests of the population and to design political negotiation and decision-making processes inclusively (for example through gender analysis);
- > Political participation through empowerment of women and disadvantaged groups by giving support, for example, to civil society organizations in their representation of marginalized persons and groups;
- > Transparency and equality of opportunities by promoting access for all to information on public affairs, particularly with regard to exclusionary criteria such as gender, educational level, language or distance; securing equal opportunities of access to public service.

Further Reading

UN Treaty Bodies, General Comments (listed according to thematic issues)

<http://www2.ohchr.org/english/bodies/treaty/comments.htm>

UN Development Programme (UNDP), Rights-based Municipal Development Programme in Bosnia and Herzegovina

<http://rmap.undp.ba>

International Council on Human Rights Policy 2005, Local Government: Delivering Public Services

<http://www.ichrp.org/en/projects/124?theme=10>

A Human Rights-Based Approach in the Energy Sector

What do human rights offer to the energy sector?

Human rights offer an internationally acknowledged, legally binding and practice-oriented frame of reference for energy programming. They focus on persons without access to energy services, and on their human rights-based basic needs such as food and water. Human rights standards require that energy programming consider the social aspects of energy provision along with the pertinent ecological, economic and technical issues. Implementation of human rights principles such as non-discrimination, participation, transparency and accountability is the foundation for positive impacts: the principle of non-discrimination supports the targeted use of energy programmes to combat poverty and to achieve gender equality; the right to participate ensures that disadvantaged groups are included in such programmes; transparency and accountability are necessary to avoid and combat corruption.

What do human rights imply for the energy sector?

The most important human rights targets for the energy sector are contained in the International Covenant on Economic, Social and Cultural Rights of 1966 (ICESCR). The human rights perspective to energy derives from the human right to adequate housing, established in article 11 of the ICESCR. According to the UN Committee monitoring the ICESCR, this right includes inter alia “sustainable access to ... energy for cooking, heating and lighting...”. In addition, the ICESCR guarantees in article 15 (1b) “the right of every person to enjoy the benefits of scientific progress and its applications”. In the 21st century, such benefits include not only access to electricity produced by conventional means but also renewable energies.



Cooking on firewood in Uganda,
photo: GTZ/Karin Desmarowitz

Access to energy services is the prerequisite for the realization of other human rights: about 80 percent of food is only edible if cooked; many forms of medical treatment and the storage of essential medicines depend on reliable energy provision; lighting in households facilitates evening learning and, hence, may contribute to the realization of the right to education.

Energy needs to be produced and provided in a cost-effective, ecologically sustainable and climate-friendly way; in addition, the rights of current residents and of future generations must be taken into account.

Human rights standards also pertain to some aspects of service delivery with regard to energy policy and programmes. The most crucial rights are: the right to be heard and to participate in public decision-making, the right to information, the right to a judicial remedy and the right not to be discriminated against when accessing energy services.

What do human rights call for in practice?

- > Targeted increase of affordable access to energy services for poor and extremely poor groups in areas with no or insufficient access; design of tariffs and payment modalities that take into account the needs and ability to pay of poor households; furthermore, pro-active and gender-sensitive consultation with, and participation of, these groups;
- > Prioritization of energy provision that minimizes the costs in terms of time and money usually borne by women when procuring fuels: this means reliable access for households to affordable energy, in particular for cooking, heating and lighting, as well as for small businesses;
- > Support for the regulatory and monitoring capacity of states: while human rights do not require that energy services are provided by public authorities, they do oblige the state to adequately regulate and monitor private service provision, and to ensure accessible energy services for all;
- > Stable energy supplies in hospitals and other institutions indispensable for people's survival;
- > Improved health and safety at work in energy industries;
- > Participatory and transparent design of political decision-making processes in energy sector reforms through inclusion of users and stakeholders, in particular in conflicts concerning the use of energy;
- > Assessment of the ecological sustainability of energy policy measures as well as their environmental impact on local areas, whilst focusing on efficiency, prioritizing promotion of renewable energies and offering alternative energy sources;
- > Improved accountability of private and public energy service providers, and the putting in place of easily accessible complaints mechanisms and judicial remedies which enable citizens to find redress for human rights violations at the planning stage of energy programmes (relating, for example, to contamination of the environment or resettlements) or during their implementation (for example with respect to corruption or tariff design);
- > Expansion of social and environmental impact assessments to cover human rights aspects, and establishment of adequate monitoring systems, in particular for large-scale energy production.

Further reading

UN Committee on Economic, Social and Cultural Rights, General Comments (in particular numbers 4, 7, 12, 13, and 14)
<http://www2.ohchr.org/english/bodies/cescr/comments.htm>

Business and Human Rights Resource Centre, Energy Sector
<http://www.business-humanrights.org/Categories/Sectors/Utilities/Energy>

UN Development Programme (UNDP) 2005, Integrating Human Rights into Energy and Environment Programming: A Reference Paper
http://www.undp.org/governance/docs/HR_Pub_environmentprog.pdf

A Human Rights-Based Approach in the Health Sector

What do human rights offer to the health sector?

The human right to “the highest attainable standard of health” (in short: right to health) offers a legally binding, internationally acknowledged frame of reference. It contains clear guidelines for the focus and design of development cooperation in the health sector. The right to health gives a qualitative perspective to activities geared to improving mothers’ and childrens’ health (MDGs 4 and 5), and to the fight against HIV/AIDS and other diseases (MDG 6). It does so by focusing on persons and groups particularly affected by poverty and discrimination. In addition, the implementation of human rights principles such as transparency and accountability contributes to improved governance in the health sector.

What is the right to health?

The right to health is established in article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Moreover, it is found in other human rights conventions that spell out the rights of women, children and persons with disabilities.

The UN Committee on Economic, Social and Cultural Rights monitors the implementation of the ICESCR. In its [General Comment No. 14](#) of 2000, the Committee has defined four core elements (see below) as the substance of the right to health.



Visiting young patients at home, India,
photo: GTZ/Richard Lord

Since 2002, the UN Special Rapporteur on the Right to Health has further monitored and defined this right. His annual reports are based on research and country missions, and show how to design and monitor a health system that builds upon the right to health.

Core elements

Availability	Sufficient number of functioning health facilities and services as well as essential medicines; availability of safe drinking water and adequate sanitation facilities
Accessibility	Accessibility of health facilities and services for all, without discrimination: <ul style="list-style-type: none"> > physical accessibility and safe reach for all, including women and girls and disadvantaged persons (for example with disabilities) and groups > affordability for all, in particular for disadvantaged persons and groups > the right to seek, receive and impart health information, whilst respecting the confidentiality of personal data
Acceptability	Respect for medical ethics and confidentiality, cultural appropriateness, consideration of gender and age-specific needs in service delivery
Quality	Scientifically and medically appropriate quality, including trained staff, quality-proven medicines and adequate medical equipment

Frequent misunderstandings

False	True
The right to health requires health services to be provided free of charge.	States must provide sufficient social security measures for persons living in their territory so that essential health services are affordable for all, in particular for poor groups.
A state commits a human rights violation as long as not all persons living within its territory have access to comprehensive health services.	A state compromises the right to health if it does not undertake steps to comply with its core obligations (equitable access to health services, essential medicines, food, safe drinking water and sanitation). Apart from that, the ICESCR provides for progressive realization of the right to health to the maximum of the state's available resources.
The right to health is primarily implemented through court rulings in favour of individuals.	The right to health is primarily realized through the planning and implementation of a targeted health policy. However, the enforceability of human rights is an important means of holding a state to account for its actions or inaction. This being so, courts can play an important role in enforcing individual and collective entitlements to adequate health services.

What does the human right to health call for in practice?

The ultimate goal of a human rights-based policy in the health sector is to improve access of the whole population – and of extremely poor and disadvantaged groups in particular – to health services, health information, and healthy living conditions. The right to health is closely linked to other human rights. It can only be realized on a sustainable basis if, for example, the right to access safe drinking water or the right to education are implemented. At the same time, health is a basic prerequisite for exercising other human rights and for participating in political and economic life.

More specifically, the right to health calls for:

- > Putting priorities on integrated basic health services that offer preventive and curative medicine;
- > Consideration of the socio-economic determinants of health and illness as well as of the structural causes of unequal access to health services;
- > Prioritization of sexual and reproductive health and rights, emergency gynaecological and obstetric care, and measures against harmful traditional practices (female genital mutilation/cutting or

preferential treatment of male offspring); making these measures accessible to unmarried young people and sexual minorities;

- > Support for the regulatory and monitoring capacity of states: while human rights do not require that health services are provided by public authorities, they do oblige the state adequately to regulate and monitor private service providers so that they comply with the substance of the right to health;
- > Orientation of health services towards the specific needs of women and men and disadvantaged groups (for example, persons with disabilities and indigenous people); support for patient rights;
- > Expansion of social security systems to include basic health care for the poor and extremely poor;
- > Action against social stigmatization and for the inclusion of persons living with certain diseases (for example HIV/AIDS and leprosy); reform of discriminatory laws and regulations;
- > Focus on the rights of users, and user participation, in health system design as well as in monitoring health system impacts; strengthening cooperation with national human rights institutions and civil society organizations.

Further Reading

UN Committee on Economic, Social and Cultural Rights 2000, General Comment No. 14, right to the highest attainable standard of health (E/C.12/2000/4)

[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/40d009901358b0e2c1256915005090be?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/40d009901358b0e2c1256915005090be?Opendocument)

UN Special Rapporteur on the Right to Health

<http://www2.ohchr.org/english/issues/health/right/>

WHO, Health and Human Rights Portal

<http://www.who.int/hhr/en/>

A Human Rights-Based Approach in Support of Democracy, Civil Society and Public Administration

Judicial Reform

What do human rights offer to the judicial sector?

The overriding goal of judicial reform in a given country is firmly to embed the rule of law. This requires a functioning, independent judiciary and transparent and effective legislation and administration. Human rights contain minimum requirements for the judicial sector and offer an internationally acknowledged and legally binding framework for its design. Human rights-based judicial reform strengthens cross-sectoral impacts: accountability is a crucial human rights principle, and fosters good governance; dispute settlement relying on human rights-based mechanisms contributes to crisis prevention and peace-building; and legal certainty facilitates economic development. The human rights principle of non-discrimination and the right to participate promote access to justice for disadvantaged persons and groups, and therefore contribute to combating poverty and achieving gender equality.

What do human rights imply for the judicial sector?

The human right to “be equal before courts and tribunals ... and to a fair and public hearing by a competent, independent and impartial tribunal established by law” is enshrined in article 14 of the International Covenant on Civil and Political Rights (ICCPR). The Human Rights Committee monitors the implementa-



An Appeals Court in Afghanistan, photo: GTZ/Travis Beard

tion of the ICCPR, and has defined four core elements (see below) as the substance of this human right in its General Comment 32 of 2007. Other human rights immediately relevant to the justice sector are established in articles 9 and 10 of the ICCPR. These are human rights guarantees in case of arrest or detention, pre-trial custody and imprisonment.

In addition, article 2 ICCPR obliges the state to take whatever steps are necessary to ensure effective judicial remedy in criminal, civil and administrative law.

Basic guarantees

Equality before courts and tribunals	Legal and factual access to justice without discrimination for all persons living within the state’s territory, regardless of gender, income, legal status, etc.; free legal assistance (and, if needed, interpretation services) for persons who cannot afford legal counsel or who cannot read
Fair and public hearing	As a matter of principle, hearings are to be public, without political or personal exertion of influence; trial proceedings are to be concluded within a reasonable amount of time
Competent, independent and impartial court or tribunal established by law	Separation of powers between parliament, public administration and judiciary; establishment of all courts and tribunals by law; judicial impartiality through clear and objective requirements regarding appointment, qualification, and execution of powers as well as through corresponding disciplinary rules; judicial decisions must be based on law
Special requirements for criminal trials	Right to be presumed innocent must be upheld; access to judicial remedies and to legal counsel as additional guarantees in criminal trials

Frequent misunderstandings	
False	True
Traditional and religious dispute settlement mechanisms violate human rights.	Traditional and religious dispute settlement mechanisms can be in accordance with article 14 (ICCPR) if their application is restricted to minor disputes and their decisions are subject to appeal before ordinary courts. If state and traditional judicial systems co-exist (legal pluralism), the rule against double jeopardy and the principle of non-discrimination (for example, no gender-specific appraisal of offences, leading to different sanctions) must be observed.
Special criminal courts and tribunals are generally not compatible with human rights.	Special criminal courts and tribunals need to comply with the requirements of article 14 ICCPR - that is they need to be independent and impartial, and established by law. Trials before such courts and tribunals must be restricted to persons who entertain a special relationship to the state, for example soldiers. Trials against civilians should not be held before special criminal courts except in exceptional circumstances.

Since 1994, the UN Special Rapporteur on the Independence of Judges and Lawyers undertakes regular country missions and annually reports on the structural challenges in the judicial sector.

What do human rights call for in practice?

- > Equal access for poor and marginalized groups to the legal and judicial system, in particular for poor women, by eliminating factual obstacles such as costs for legal counsel, high procedural costs, language barriers, long distances to get to court, limited legal or procedural literacy;
- > Elimination of discriminatory judicial decisions, in particular with regard to women and members of marginalized groups, as evidenced in different lengths of proceedings and custody, and rates of convictions; if need be, provision of victim support schemes;
- > Reform of laws that either directly or indirectly discriminate against certain groups, with the participation of the affected groups; provision of expert advice to relevant state institutions and parliament;
- > Guarantees for independence, integrity, and diversity of the judiciary by establishing a legal framework for effective protection against external exertion of influence and for financial planning reliability; regulating access to judgeships, including promotion of underrepresented groups; regulating judicial practice and combating corruption through internal and external supervisory bodies;
- > Expansion of social control by surveying users and developing proposals for eliminating abuses such as corruption, misuse of power and discrimination in the justice sector;
- > Cooperation with national human rights institutions and specialist non-governmental organizations in all areas;
- > Promotion of systemic relationships between the judiciary, administrative and alternative complaints mechanisms (such as independent ombudspersons and traditional/indigenous conflict resolution mechanisms) to ensure observance of human rights standards and thus enhance access to justice for women and members of disadvantaged groups.

Further Reading

UN Human Rights Committee 2007, General Comment No. 32,

The right to equality before courts and tribunals and to a fair trial (CCPR/C/GC/32)

<http://www2.ohchr.org/english/bodies/hrc/docs/gcart14.doc>

UN Special Rapporteur on the Independence of Judges and Lawyers

<http://www2.ohchr.org/english/issues/judiciary/index.htm>

International Council on Human Rights Policy 1998, Local perspectives: Foreign Aid to the Justice Sector

<http://www.ichrp.org/en/search?q=foreign+aid+to+the+justice+sector+1998>

A Human Rights-Based Approach to Food Security and Agriculture

What do human rights offer to food security and agriculture?

The promotion of the human right to adequate food (in short: right to food) facilitates sustainable food security. The right to food and the FAO Voluntary Guidelines to implement it can be used by all players in the sector as an internationally acknowledged and practice-oriented frame of reference. Implementing human rights obligations advances the achievement of the Millennium Development Goal (MDGs) particularly relevant for the sector - the reduction of extreme poverty and hunger (MDG 1). The right to food gives a qualitative perspective to activities geared to reaching the MDGs; key human rights principles – among them participation, non-discrimination and accountability - help to focus on disadvantaged regions and groups and require all players to act accountably at the national and international level. Overall, human rights-based food security and policy in agriculture strengthen impact across other sectors, inter alia in sustainable economic development and protection of the environment and natural resources.

What does the human right to food imply?

The human right to adequate food is enshrined in article 11 of the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR). Moreover, it is embodied in other conventions such as the Convention on the Rights of the Child and the Convention on the Elimination of all Forms of Discrimination



Woman in Peru offering Maca roots, photo: GTZ

against Women. The latter puts a particular focus on realizing equal rights for women in rural development. In its [General Comment 12](#) of 1999, the UN Committee on Economic, Social and Cultural Rights, which monitors the implementation of the ICESCR, established three core elements (see below) as the substance of the right to food.

Core elements

Availability	Sufficient quantity of nutritious food; ecologically sustainable availability of food through subsistence agriculture or functioning systems of food production and distribution/marketing
Accessibility	<p>Accessibility of food for all without discrimination, in particular for persons and groups especially affected by food insecurity, such as the landless, small farmers, and the urban poor:</p> <ul style="list-style-type: none"> > physical accessibility for all, including persons living with disabilities or diseases; > financial accessibility, that is affordability for all, in particular for disadvantaged persons and groups (for example the landless and the poor); food costs should not reduce a household's income to the extent that other goods important for survival can no longer be purchased
Adequacy and Quality	Cultural adequacy of food and foodstuffs; food safety (with respect to ingredients and influences of production and storage); minimum quality requirements for sufficient and varied food with nutritional values and substances that are in accordance with the needs of differing groups of persons

Frequent misunderstandings

False	True
A state violates the right to food if it does not protect all persons from losses in income or crop failure at all times	The right to food obliges states not to take any measures that threaten or compromise the opportunities of persons and groups to provide food for themselves. Moreover, states must protect the population from other players (for example private investors) who obstruct existing access to food or productive resources.
The right to food obliges states to subsidize foodstuffs or to provide them free of charge.	A state must undertake targeted steps so that all persons living within its territory are able to have sustainable access to sufficient and adequate food, be it through subsistence production or through sufficient incomes to purchase food. The state must provide direct food aid if persons or groups of persons are not in the position to provide themselves with sufficient food for reasons beyond their control (for example natural disasters) or if they are in state custody (for example in prisons).

A UN Special Rapporteur on the Right to Food was appointed in 2000. His reports are based on country missions and identify violations of the right to food as well as the measures necessary for its realization. The Special Rapporteur is also tasked with clearly defining state obligations to respect, protect and fulfil the human right to food.

What does the right to food call for in practice?

- > Focus on food security of the population rather than on export-oriented agriculture or industrial use of natural resources;
- > Identification of groups with scarce access to food and productive resources who are correspondingly vulnerable to food insecurity;
- > Development of food security strategies with the active participation of civil society organizations and of groups at risk;
- > Targeted measures to promote disadvantaged groups, for example by enhancing access of small farmers to productive resources (such as land, micro-credits, water, seeds, agricultural extension); if necessary, introduction of basic social security;

- > Institutionalization of monitoring and complaints mechanisms to support the enforceability and implementation of the right to food; complaint mechanisms should have a mandate to hear complaints with respect to the conduct of the state and other relevant players;
- > Early warning systems to prevent famine, including the laying in of food stocks and adequate distribution systems;
- > Equal access to land and to land ownership, in particular for women and indigenous people, for example by strengthening legal security (by means of a land register), legalizing land titles and supporting land reforms.

Further Reading

UN Committee on Economic, Social and Cultural Rights 1999, General Comment No. 12, The right to adequate food (E/C.12/1999/5)

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/3d02758c707031d58025677f003b73b9?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/3d02758c707031d58025677f003b73b9?Opendocument)

UN Special Rapporteur on the Right to Food

<http://www2.ohchr.org/english/issues/food/index.htm>

FAO 2004, Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security

<ftp://ftp.fao.org/docrep/fao/meeting/009/y9825e/y9825e00.pdf>

A Human Rights-Based Approach to Protecting the Environment and Natural Resources

What do human rights offer to the protection of the environment and natural resources?

Human rights offer an internationally acknowledged and legally binding frame of reference for designing development cooperation. A human rights-based approach opens a new, qualitative perspective on ensuring environmental sustainability (MDG 7). The human rights standards and principles - including those of participation, non-discrimination and accountability - constitute a legal basis for the population's participation in formulating environmental strategies. They also serve as a framework for focusing programmes on providing positive impacts for disadvantaged groups, and on establishing environment-related monitoring and complaints mechanisms. Integration of human rights principles into environmental programming will increase cross-sectoral impact with respect to poverty reduction, gender equality and good governance.

What do human rights imply for protecting the environment and natural resources?

The most relevant human rights for the sector are contained in the International Covenant on Civil and Political Rights ([ICCPR](#)) and the International Covenant on Economic, Social and Cultural Rights ([ICESCR](#)). The UN Committees monitoring the implementation of the Covenants have interpreted the substance of the human rights guaranteed in the treaties, inter alia through their so-called General Comments. These Comments spell out that a clean environment is indispensable for the realization of many other human rights, in particular the rights to health, food and water. In addition, they interpret access to, and use of, natural resources as an important aspect of the socio-cultural identity of indigenous minorities, and worthy of protection. Currently, there are a number of debates on how to approach the establishment of an independent human right to a clean environment.

A human rights-based approach focuses on persons and groups that are particularly affected by environmental pollution and the degradation of their natural



Bicycling in Cambodia, photo: GTZ/Richard Lord

livelihoods: in many countries, they are the poor and poorest population – who are often women and children. Often they live and work in precarious or dangerous environmental conditions. This illustrates how important is the principle of non-discrimination, in particular for women and the poor.

A human rights-based approach underlines the legal and material responsibility of the state to hold those to account who pollute the environment and to adopt effective measures in this respect. Within the community of states, international environmental treaties spell out a number of human rights obligations. The Kyoto Protocol, for example, obliges states to finance climate protection measures for economically weaker countries.

The UN Special Rapporteur on the Adverse Effects of the Movement and Dumping of Toxic and Dangerous Products and Wastes on the Enjoyment of Human Rights regularly publishes reports on his country visits as well as on current challenges. In addition, the Office of the UN High Commissioner on Human Rights is currently carrying out a study on the impact of climate change on human rights.

What do human rights call for in practice?

- > Prevention and/or elimination of environmental pollution in particularly affected regions, for example by introducing new technologies for safe waste disposal or through integrated water body restoration (see [General Comment No. 15](#) of the UN Committee on Economic, Social and Cultural Rights);
- > Design of climate change adaptation strategies: such strategies should be based on the requirements of the human right to an adequate standard of living, in particular as regards food security and water supply (for example when formulating policies on migration, energy, or social security);
- > Design of adequate agricultural and environmental policies: the right to food can be used as a basis for securing access to land, land rights and the sustainable use of natural resources, and for maintaining and protecting biodiversity;
- > Adequate access of indigenous communities to their natural resources (for example as regards forest protection regulations), and targeted, gender-sensitive support for representatives of indigenous groups;
- > Integration of a comprehensive human rights perspective in environmental impact assessments, in particular with respect to impact on marginalized groups; participatory data collection, disaggregated according to gender, ethnic origin and age, amongst other criteria;
- > Development of instruments for social dialogue, to achieve a more sustainable use of natural resources on a broad social basis;
- > Enhancement of the right to information: support for state actors in providing accessible information on environmental dangers; introduction of environmental protection in school curricula so that children and young people are empowered to conserve and protect the natural environment;
- > Strengthening of human rights organizations by supporting their participation in dialogue processes which resulted from the Agenda 21 adopted at the earth summit in Rio de Janeiro in 1992, and which enhance the active participation of civil society;
- > Enhancement of state capacity to fulfil human rights obligations, for example in respect of the state's duty to regulate and monitor third parties, such as corporations, so that they comply with the minimum human rights standards for the protection of the environment (in particular the right to health);
- > Promotion of civil society participation at negotiations with corporations with regard to environmental and labour conditions; making use of legally binding standards;
- > Consideration in urban development concepts of recommendations made by the UN Special Rapporteur on the Adverse Effects of the Movement and Dumping of Toxic and Dangerous Products and Wastes on the Enjoyment of Human Rights;
- > Establishment of administrative and judicial mechanisms to hold those causing pollution to account, with particular emphasis on access to these remedies for indigenous groups, and support for them in obtaining redress/compensation from polluters;
- > Support for global transparency and accountability initiatives, whilst making use of international human rights obligations for the protection of indigenous groups from contamination of the environment and loss of their natural habitat (for example in the context of the Extractive Industries Transparency Initiative or the International Convention on Biodiversity).

Further Reading

UN Treaty Bodies, General Comments (listed according to thematic issues)

<http://www2.ohchr.org/english/bodies/treaty/comments.htm>

UN Special Rapporteur on the Adverse Effects of the Movement and Dumping of Toxic and Dangerous Products and Wastes on the Enjoyment of Human Rights

<http://www2.ohchr.org/english/issues/environment/waste/annual.htm>

Office of the UN High Commissioner on Human Rights: Human Rights and Climate Change

<http://www2.ohchr.org/english/issues/climatechange/index.htm>

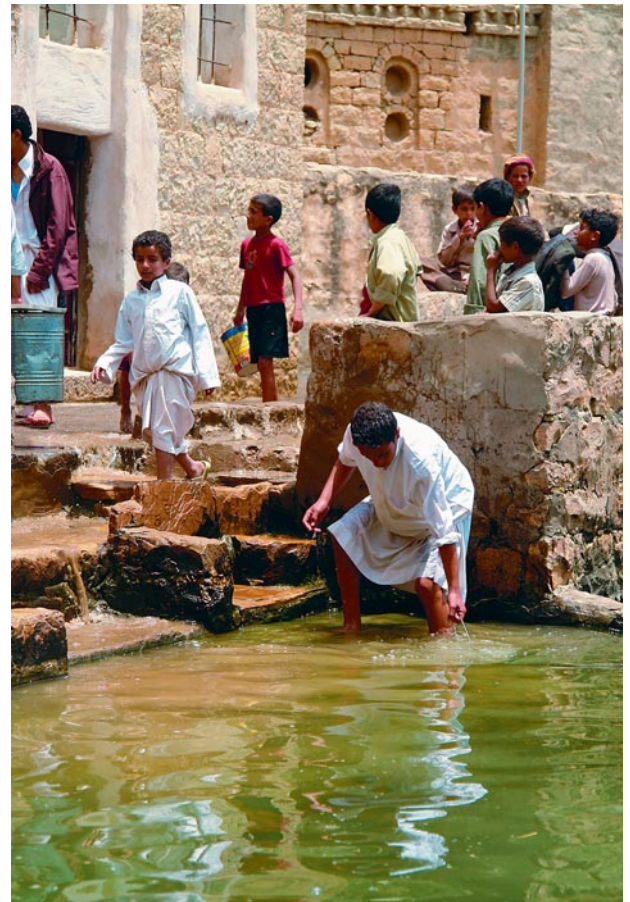
A Human Rights-Based Approach to the Water and Sanitation Sector

What do human rights offer to the water and sanitation sector?

The human right to water and sanitation can be used as a legally binding, political and practice-oriented umbrella for all actors intervening in the water sector. It includes in particular a focus on the poor and thus entails a qualitative perspective on the sustainable use of natural resources (MDG 7). The human rights principles – among them participation, transparency and accountability - contribute to strengthening good governance in the water sector.

What is the human right to water and sanitation?

The human right to water and sanitation is part of the right to an adequate standard of living and the right to health (articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights ([ICESCR](#))). The UN Committee monitoring the implementation of the ICESCR adopted the following core elements as the substance of the human right to water and sanitation in its [General Comment No. 15](#) of 2002.



Drawing water in Yemen, photo: GTZ/Wagdi Al Maktri

Core Elements

Availability	A sufficient quantity of water and sanitation facilities for all; 20 litres of water per person per day constitute just about an acceptable minimum
Accessibility	<p>Access to water and sanitation without discrimination for all:</p> <ul style="list-style-type: none"> > Geographical accessibility within, or in the immediate vicinity of, each household and workplace as well as educational institution; if water cannot be supplied in the immediate vicinity, accessibility is given if a supply is within 30 minutes' walk (roundtrip – total collection time – and not more than 1 km in distance) > Financial accessibility, meaning affordability for all, particularly for disadvantaged persons and groups Expenditure on water and sanitation may not reduce household income to the extent that other important goods for survival (such as food or clothing) can no longer be afforded (benchmark: expenses for water and sanitation should not exceed 5% of the income available to a household) > Physical accessibility, meaning within safe physical reach for all, including women and disadvantaged persons (e.g. persons with disabilities) > Access to information: the right to seek, obtain and impart information on water and sanitation issues
Quality	The absence of disease-carrying micro-organisms and other substances in drinking water that constitute a threat to a person's health or to the environment (see WHO-Guidelines for Drinking Water Quality)

Frequent misunderstandings

False	True
The right to water demands that safe drinking water and sanitation must be provided free of charge.	A human rights-based approach considers water as a „limited natural resource and a public good“, hence it “should be treated ... not primarily as an economic good” (ICESCR Committee, General Comment 15). Accordingly, financing for water and management of water supplies must be sustainable. Trade-offs between sustainability and affordability are to be solved politically but not to the detriment of the most vulnerable groups. Nor must it lead to a reduction in the existing supply of safe drinking water or sanitation. Water must be provided free of charge in exceptional circumstances – for example, if a person cannot afford to pay for it. This holds true for persons living in extreme poverty and for disaster victims, but also for persons in state custody (for example in refugee camps, prisons, etc.).
A state commits a human rights violation as long as not all people living within its territory have access to safe drinking water and sanitation.	A state compromises human rights if it does not undertake what is necessary and within its power to realize the right to water and sanitation for all, especially for those who have insufficient or no access at all.

Following a German-Spanish initiative, the UN Human Rights Council appointed an [Independent Expert](#) on the Right to Water and Sanitation in September 2008. She will continue clarifying the content of the right to water and sanitation and its related human rights obligations, and will identify best practices regarding its implementation.

What does the human right to water and sanitation call for in practice?

- > Prioritization of safe drinking water and sanitation supply systems as opposed to the industrial use of water;
- > A geographical focus on regions that have insufficient or no supply systems at all (for example in informal settlements, suburban settlements, rural regions) and where sizeable hurdles for private connections exist;
- > Improvement of the efficiency of existing water supply management systems;

- > Reduction of the indirect costs of water, particularly for women and girls;
- > Support for a human rights-based design of tariffs and payment modalities, which accommodates the situation of poor and extremely poor households and bases such designs on consultations with those groups, particularly with the women among them;
- > Enhanced participation of water and sanitation supply users, improved horizontal accountability of private and public water services providers; where necessary, support for the institutionalization of accessible complaints mechanisms;
- > Support for the regulatory and monitoring capacity of states: while human rights do not require that water and sanitation services are provided by public authorities, the state remains responsible for ensuring compliance with the core elements of the human right to water and sanitation through enforcement of pertinent regulations;
- > Enforcement of the state’s supervisory duty regarding affordability and quality of drinking water also when it is sold at water kiosks or from water lorries.

Further reading

UN Committee on Economic, Social and Cultural Rights 2002, General Comment No. 15, The right to water (E/C.12/2002/11)
[http://www.unhcr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94/\\$FILE/G0340229.pdf](http://www.unhcr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94/$FILE/G0340229.pdf)

UN Independent Expert on the Issue of Human Rights Obligations Related to Access to Safe Drinking Water and Sanitation
<http://www2.ohchr.org/english/issues/water/iexpert/index.htm>

Centre on Housing Rights and Evictions (COHRE)
<http://www.cohre.org/water>

A Human Rights-Based Approach to Sustainable Economic Development

What do human rights offer to sustainable economic development?

Human rights are rooted in international treaties and can be used to design policies for sustainable economic development. When such an approach is adopted, persons and their human rights-based needs become central and require the state to design an economic policy oriented towards broad-based, pro-poor employment and decent work for women and men. Human rights such as the right not to be discriminated against contribute to policy measures designed to achieve equality of opportunities and access to economic activity. These are basic prerequisites for reducing poverty and achieving the Millennium Development Goals

What do human rights imply for sustainable economic development?

The binding character of human rights defines a legal framework for state action with regard to participants in the economic process. Human rights regulate the relationship between rights and obligations between citizens and the state. Among others, they provide for the legal protection of property (for example, protection from forced evictions), and for the freedom to choose one's occupation and the freedom of association. Furthermore, the International Covenant on Economic, Social, and Cultural Rights ([ICESCR](#)) establishes the right of all persons to pursue an income-generating activity ("the right to work").

In its [General Comments to the ICESCR](#), the respective UN Committee has defined the substance of specific human rights and the corresponding state obligations. The state needs to respect the right to work, meaning for example that it must not, without legitimate grounds, adopt laws that exclude persons from freely choosing their occupation. Moreover, the state has an obligation to protect human rights. This requires state institutions to regulate and monitor third parties, so that they do not violate the human rights of residents and consumers. Thirdly, the state must adopt economic and social policy measures in order progressively to realize human rights such as the right to work.



Sorting coffee beans in Peru, photo: GTZ/Richard Lord

Human rights can also entail some constraints for economic activities whenever the latter may compromise the human rights of others. This is particularly relevant with regard to the right to health as well as with regard to the principle of non-discrimination, the right to participate and the right to physical integrity. The [ILO core labour standards](#) spell out in detail some of these rights for workers and prohibit, among others, forced labour.

Private corporations have considerable influence on the realization of human rights. Thus, human rights do affect private relationships, for example in employment. However, there are still significant gaps in the regulatory legislation which would ensure that the activities of transnational corporations conform with human rights. Therefore, in 2005, the UN appointed a Special Representative of the Secretary-General on Human Rights and Transnational Corporations.

Frequent misunderstandings

False	True
The state violates the right to work as long as not all persons living within its territory have obtained employment.	The state compromises the human right to work if it does not adopt effective measures to enhance productive work. Among these measures are vocational education and economic policies geared towards employment and poverty reduction. Furthermore, the state compromises the right to work if it fails to put into place a legal and regulatory framework that enables equality of opportunities for women and men.
Social and economic human rights lead to market distortions and constrain development opportunities.	The human rights-based approach addresses the state as a duty-bearer obliged to put into practice an adequate framework for a market economy. Fundamental social standards such as the ILO core labour standards – among them the prohibition of discrimination, forced labour and the worst forms of child labour, as well as the freedom of association and to collectively bargain – are universal and, thus, not negotiable. It is unacceptable to secure competitive advantages by undermining these core labour standards.

What do human rights call for in practice?

- > Pro-poor orientation of economic policy measures through incentives to create employment and through equality of opportunities in employment; accordingly, the impact of economic policy on women and disadvantaged groups needs to be closely monitored;
- > Decisive action against short or mid-term deterioration in the human rights situation, for example by ensuring basic social security. Such deterioration may be caused by economic development if, for example, a country's increased exports of agricultural or fish products cause food insecurity at home amongst its own population;
- > Strengthened state capacities to create and enforce regulatory frameworks for enterprises;
- > Elimination of forced labour and the worst forms of child labour. Concentrate on the quality of employment created, particularly with a view to gender-specific discrimination, and support decent working conditions and the right to form trade unions;
- > Greater accessibility of the labour market for women and disadvantaged groups (such as minorities and persons with disabilities) with targeted strategies in line with their needs and capacities;
- > Support for a legal framework regulating public procurement to ensure fair and equal competition and economically reasonable tax spending, particularly with a view to avoiding corruption;
- > Incentive systems for corporations to comply with human rights standards, for example regarding child labour. This can be done by either setting exclusionary criteria for corporations or positive criteria for the goods to be delivered;
- > Enhanced administrative and judicial complaints mechanisms for labour law-related disputes;
- > Greater transparency and participation in economic and employment policies by supporting implementation of environmental and core labour standards, and by including corporations in discussions on responsible leadership and human rights responsibilities. Appropriate instruments may be: fora for multi-stakeholder dialogues, such as round tables on codes of conduct and networks such as the UN Global Compact, as well as country specific public-private dialogue initiatives. In addition, promoting the development of legally binding obligations for business enterprises.

Further Reading

UN Committee on Economic, Social and Cultural Rights 2006, General Comment No. 18, The right to work (E/C.12/GC/18)
[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.GC.18.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/E.C.12.GC.18.En?OpenDocument)

International Labour Organizations, Core Labour Standards
<http://www.ilo.org>

Special Representative of the UN Secretary-General on Human Rights and Transnational Corporations and other Business Enterprises
http://www2.ohchr.org/english/issues/trans_corporations/index.htm

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