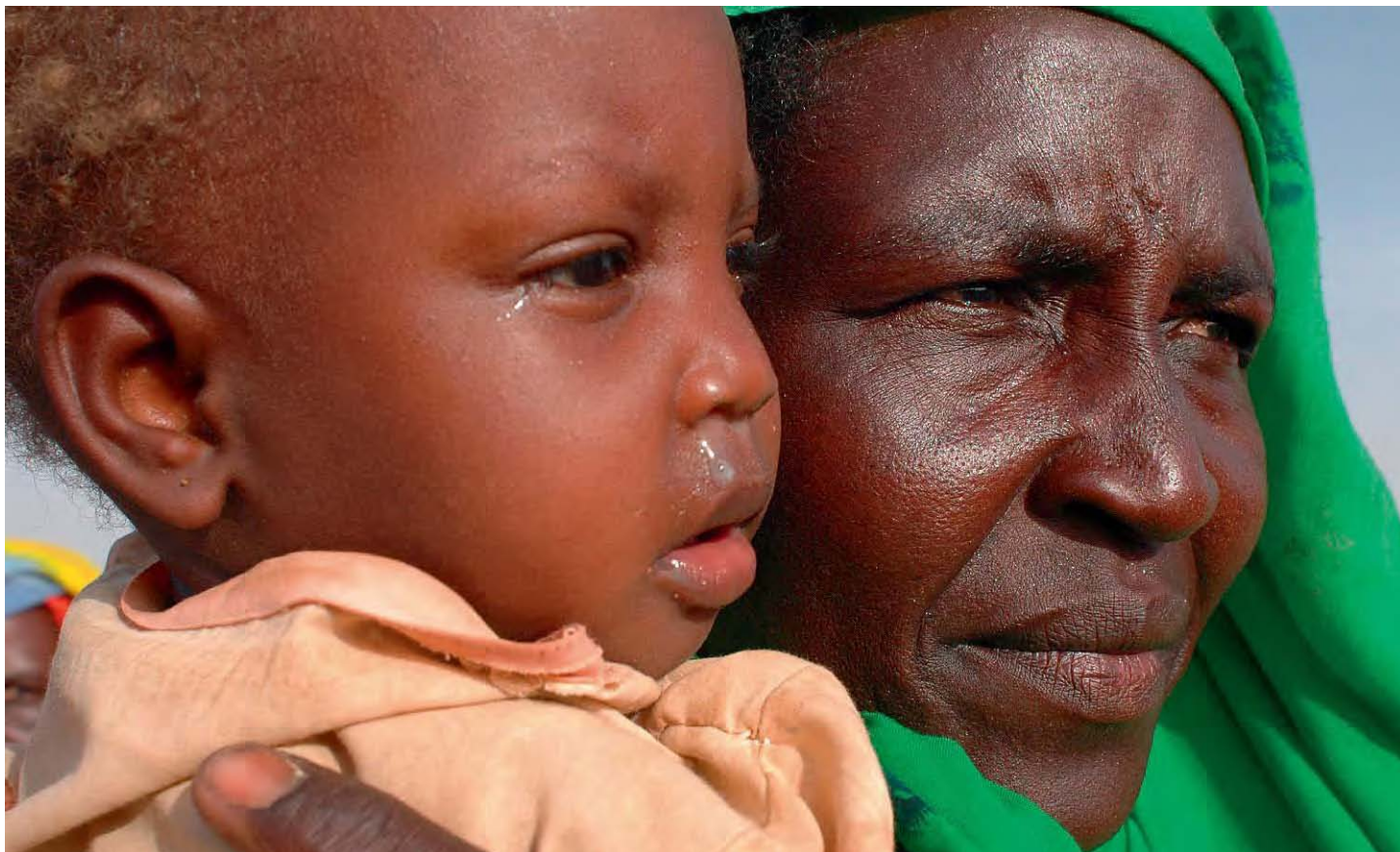


Human rights in practice

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





Minister Dirk Niebel

Respect, protection and fulfilment of human rights are the foundation for the democratic, economic and cultural development of every country. That is why human rights are a priority of Germany's government and an issue which cuts across all policy areas. The German government follows a value-based development policy in which human rights are a guiding principle. In the future, we will place even greater emphasis on this commitment!

Since 2004, the Federal Ministry for Economic Cooperation and Development has been committed to implementing a human rights-based approach to development. In practice, this means that, in all its partner countries and in all sectors, Germany is systematically integrating human rights in its development cooperation. The human rights concerned here are not only the civil and political ones but also the economic, social and cultural human rights. The human rights-based approach also calls for the consistent application of what are known as human rights principles – namely self-determination, non-discrimination and equality of opportunity, empowerment and participation, transparency and accountability.

The human rights-based approach is founded on the international human rights treaties, which stipulate minimum standards in human rights to which we, along with most of our partners, have committed ourselves. Through our development cooperation

activities, we make a contribution to implementing human rights globally and to fighting poverty. Only if the poor and marginalised have the opportunity to exercise their rights, and can thus act independently and autonomously, will they have the freedom to shape their own lives and find ways out of poverty.

We know from our practical experience in development cooperation that to realise human rights is a difficult and long-term task. Much persuasion will be needed to overcome the reservations and misconceptions held by state decision-makers as well as by the people, and to initiate social changes. To do this, we need to bring on board everyone involved. The fact sheets that follow describe how, in practice, development cooperation can integrate human rights in various development sectors such as water, education, health, economic development and the environment. This collection of fact sheets is intended to provide concrete and helpful examples of how, together, we can help realise human rights globally.

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 have to offer for 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 frame of reference for policy dialogue with our partners and other donors. Human rights contain practice-oriented minimum standards for programme design, implementation and evaluation. They can effectively complement quantitative development targets, such as the Millennium Development Goals, by adding qualitative elements and standards, particularly at the national level.

In the Accra Agenda for Action, states have pledged to integrate human rights more systematically and consistently into all policies geared towards greater effectiveness of development cooperation: human rights contribute to the harmonisation of donor policies, and promote accountability relationships between the state and its residents and between donors and partners. They can be used as a benchmark for 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 to systematically integrate 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.

How does the human rights-based approach impact on German development cooperation?

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



Citizens participate in planning, photo: GTZ/Silke Irmscher

respective roles: individuals and groups develop awareness of their rights and are empowered to claim them effectively. In turn, state actors do more to fulfil their human rights obligations, for example by removing access barriers to basic services or by increasingly meeting demands to demonstrate accountability for their actions. The BMZ has enshrined 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. These Comments define the content of human rights and make them practice-oriented, for example by setting specific 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, and also transparency and accountability. Application of these principles is binding, being tied to rights and obligations.

What implications does a human rights-based approach have 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 prospective impacts on human rights and establish appropriate monitoring systems; projects are adapted accordingly or may be dropped.
- > Development cooperation projects focus on impact for disadvantaged groups – that is on tangible improvements with respect to their living conditions and scope for action. This may be achieved through direct support (for example by strengthening their capacity to self-organise or by expanding social protection systems) and also through indirect support, for example by changing framework conditions through legislation or tariff reforms.
- > Development cooperation prioritises regions and areas, such as remote rural areas or informal urban settlements, where access to resources and services is particularly poor.
- > Donors use human rights standards and recommendations by 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 harmonisation, for example in developing Joint Assistance Strategies.
- > State institutions are supported in their efforts to expand monitoring and complaints mechanisms. Representatives of marginalised groups, human rights defenders and civil society organisations are encouraged to participate in political decision-making, set social processes in motion and demand the implementation of human rights.
- > Economic actors are given support to assist them in observing human rights-based social standards (core labour standards) and state institutions are given support to assist them in developing legally binding norms for economic activity.
- > Partner institutions are given assistance for the establishment of monitoring and evaluation systems that allow for data to be collected that is differentiated according to disadvantaged population groups.

Further reading

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

http://www.bmz.de/en/publications/topics/human_rights/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

Online portal of the German Institute for Human Rights on the human rights-based approach in development cooperation

<http://www.institut-fuer-menschenrechte.de/en/topics/development-policy.html>

A human rights-based approach in the education sector

What do human rights have to offer for 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, that is the realisation of universal primary education and gender equality (MDGs 2 and 3). The right to education adds 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 democratisation, 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



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

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 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.

Core elements

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:

- > 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 misconceptions

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 the 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 if all persons living within its territory (children and adults) do not have access to education.	A state compromises the right to education if it does not undertake targeted steps to make the fullest use of maximum available resources for the full realisation of the right to education for all, in particular for disadvantaged or discriminated groups.
The right to education exclusively addresses children as rights holders.	Children, adolescents and adults are all considered to be rights holders under the right to education. It thus encompasses education at primary, secondary, polytechnic/vocational and university level, and adult education. It also recognises 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 are the implications of the human right to education in practice?

- > Prioritisation 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://www2.ohchr.org/english/bodies/cescr/comments.htm>

UN Special Rapporteur on the Right to Education

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

UNESCO, web portal for the Right to Education

<http://www.unesco.org/en/right-to-education/>

A human rights-based approach to the health sector

What do human rights have to offer for the health sector?

The human right to “the highest attainable standard of physical and mental health” (in short: right to health) offers a legally binding, internationally acknowledged frame of reference. This 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 maternal and child health (MDGs 4 and 5), and to combating HIV/AIDS and other diseases (MDG 6). It does so by directing the focus towards 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 human right to health?

The right to health is established in article 12 of the 1996 International Covenant on Economic, Social and Cultural Rights (ICESCR). Moreover, it is found in other 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, a UN Special Rapporteur on the Right to Health has further defined this right. Through country missions and annual reports focusing on different topics the Special Rapporteur has shown how the right to health can be built into the design and monitoring of health systems.

Core elements

Availability	A 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"> > physically accessible and in safe reach for all, including women and girls, and disadvantaged persons (for example those with disabilities) and groups > affordability for all, particularly 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, proven quality medicines and adequate medical equipment

Frequent misconceptions

False	True
The right to health requires health services to be provided free of charge.	States must establish sufficient social protection for persons living in their territory so that essential health services are affordable for all, in particular for poor groups.
A state is guilty of a human rights violation unless all persons living within its territory have access to comprehensive health services.	A state compromises human rights if it does not undertake steps to meet its core obligations (non-discriminatory access to health services, essential medicines, food, safe drinking water and sanitation). Apart from that, the ICESCR provides for progressive realisation of the right to health in line with 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 realised 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 are the implications of the human right to health in practice?

The ultimate goal of a human rights-based policy in the health sector is to improve the 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 realised 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.

The right to health means more specifically:

- > Putting a priority on integrated basic health services that offer preventive and curative medicine.
- > Considering the socio-economic determinants of health and illness as well as the structural causes of unequal access to health services.
- > Putting a priority on sexual and reproductive health and rights, emergency gynaecological and obstetric care, and measures to combat harmful traditional

practices (such as female genital mutilation or preferential treatment of male offspring); and making such services accessible to unmarried young people and sexual minorities.

- > The State having an obligation to regulate the health sector so that any private providers of health services uphold the core substance of the right to health.
- > Orienting health services towards the needs of women and men and disadvantaged groups (for example, persons with disabilities and indigenous people); supporting patients' rights.
- > Expanding social protection systems to include basic health care provision for the poor.
- > Acting to remove social stigmatisation and take into account the interests of persons living with certain diseases (for example HIV/AIDS and leprosy); reforming discriminatory laws and regulations.
- > Focusing 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 organisations.

Further reading

UN Committee on Economic, Social and Cultural Rights 2000, General Comment No. 14, The Right to the Highest Attainable Standard of Health (E/C.12/2000/4)

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

UN Special Rapporteur on the Right to Health

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

WHO, Health and Human Rights web portal

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

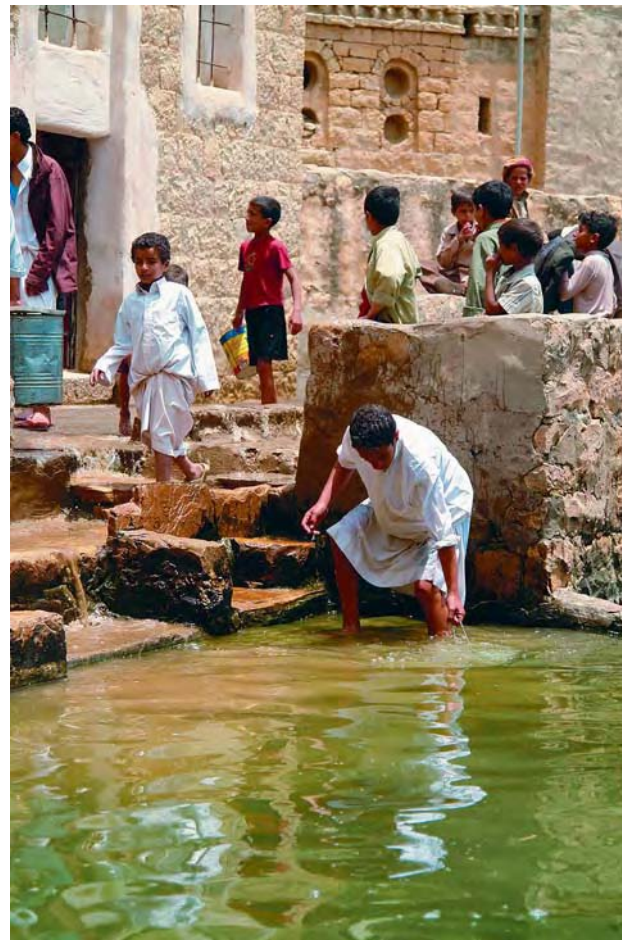
A human rights-based approach to the water and sanitation sector

What do human rights have to offer for 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 in the water sector. It includes in particular a focus on the poor and thus adds a qualitative perspective to 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?

“Safe and clean drinking water and sanitation” were explicitly recognised as a human right by the UN General Assembly in July 2010. They are 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 ICESCR implementation described important core elements (see below) as the substance of this human right 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 for personal and domestic uses and sanitation facilities for all; 20 litres of water per person per day just about constitutes an acceptable minimum.
Accessibility	Water and sanitation must be accessible without discrimination for all, that means within, or in the immediate vicinity of, each household and workplace or 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). Water and sanitation must also be within safe physical reach for actual use by all, including women and disadvantaged persons (for example, persons with disabilities) Access to information: the right to seek, obtain and impart information on water and sanitation issues.
Affordability	Water and sanitation must be financially accessible, that means affordable for all, particularly for disadvantaged persons and groups. Expenditure 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 per cent of the income available to a household).
Quality	Water must be free from substances hazardous to human health (see WHO Guidelines for Drinking Water Quality). Toilets must be hygienic and environmentally safe, and privacy ensured.

Frequent misconceptions

False	True
The human right to water demands that safe drinking water and sanitation must be provided free of charge.	A human rights-based approach sees 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 No. 15). Accordingly, financing for water and the management of water supplies must be sustainable. Trade-offs between sustainability and affordability are to be resolved politically but not to the detriment of the most vulnerable groups. They must not lead to a reduction in the existing supply. Water and sanitation must be provided free of charge in exceptional circumstances – for example, if a person cannot afford to pay for them. This applies 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 if all people living within its territory do not 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 gradually realise the human right to water for all, especially for those who have insufficient or no access at all, alongside other human rights, such as to health.

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 to clarify the right to water and sanitation and its related human rights obligations, and will identify best practices regarding its implementation.

What are the implications of the human right to water and sanitation in practice?

- > Prioritisation of safe drinking water and sanitation supply systems over the industrial use of water.
- > A geographical focus on regions or groups that have insufficient or no supply systems at all (for example in informal or suburban settlements and rural regions) and where there are sizeable hurdles for private connections.
- > Improvement of the efficiency of existing supply management systems.

- > Reduction of the indirect costs of water and sanitation, particularly for women and girls.
- > Support for the human rights-based design of tariffs and payment modalities, which accommodates the situation of poor and extremely poor households, and is based on consultations with those groups, particularly with the women among them.
- > Enhanced user participation, improved horizontal accountability of private and public water services providers; where necessary, support for the institutionalisation of effective complaints mechanisms.
- > Support for the regulatory and monitoring capacity of states: while human rights do not require that 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 by enforcing 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://www2.ohchr.org/english/bodies/cescr/comments.htm>

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/topics/water-and-sanitation>

A human rights-based approach to food security and agriculture

What does the human right to food have to offer for food security and agriculture?

Promoting the human right to adequate food (in short: right to food) facilitates more sustainable food security. The right to food and the Voluntary Guidelines to implement it adopted by the FAO in 2004 can be used by all players in the sector as an internationally acknowledged and practice-oriented frame of reference. In addition, states have agreed in international agreements such as the UN Convention to Combat Desertification (UNCCD) or the Food Aid Convention (FAC) to cooperate in addressing global challenges. These agreements can be used as guidelines for planning food security measures.

The right to food adds a quality dimension to the process for achieving the Millennium Development Goal of eradicating extreme poverty and hunger (MDG1). Human rights principles – for example participation, non-discrimination and accountability – are particularly helpful since they direct the focus towards disadvantaged regions and groups and demand accountability from all players at the national and international levels. Overall, human rights-based policies for food security and agriculture enhance the impacts in other sectors, inter alia the impacts on sustainable economic development and protection of the environment and natural resources.



Woman in Peru offering Maca roots, photo: GTZ

What is the human right to food?

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 also 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 against Women. The latter puts a particular focus on realising equal rights for women in rural development.

Core elements

Availability	A 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 vital goods can no longer be purchased.
Adequacy and quality	Cultural adequacy of food and foodstuffs; food safety (with respect to ingredients and environmental influences in production and storage); minimum quality requirements for sufficient and varied food supply with nutritional values and nutrients that are in accordance with the needs of differing groups of persons.

Frequent misconceptions

False	True
A state violates the right to food if it does not protect all poor 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 their populations from other players (for example private investors) who obstruct existing access to food or productive resources. What is more they must secure the necessary general conditions for the sustainable use of natural resources.
The right to food obliges states to subsidise 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 a 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).

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.

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 realisation. The Special Rapporteur is also tasked with clearly defining state obligations to respect, protect and fulfil the human right to food.

What are the implications of the human right to food in practice?

- > Prioritisation of food security for the population rather than export-oriented agriculture or the production of biomass for industrial use.
- > Identification of groups with scarce access to food and productive resources who are correspondingly vulnerable to food insecurity.
- > Targeted measures to support disadvantaged groups, for example by enhancing access for small

farmers to productive resources (such as land, micro-credits, water, seeds, extension services); if necessary, introduction of basic social protection.

- > Development of food security strategies with the active participation of civil society organisations and of groups at risk.
- > Increased investment in sustainable land use so as to safeguard the long-term production base for food, especially in areas threatened by desertification.
- > Promotion of the establishment of monitoring and complaints mechanisms to support the implementation and enforceability of the right to food vis-à-vis state duty-bearers and other relevant players.
- > Development of early warning systems to prevent famine, laying in food stocks and setting up adequate distribution systems.
- > Promotion of equal access to land and to land ownership, in particular for women and indigenous people, for example by strengthening legal certainty (by means of a land register), legalising land titles and supporting land reforms, raising awareness about and protecting against illegal land grabbing.

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://www2.ohchr.org/english/bodies/cescr/comments.htm>

UN Special Rapporteur on the Right to Food

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

FAO, web portal for the right to food

<http://www.fao.org/righttofood/>

A human rights-based approach to the energy sector

What do human rights have to offer for the energy sector?

Human rights offer an internationally acknowledged, legally binding and practice-oriented frame of reference for energy programming. They focus on people without access to energy services, and on their human rights-based basic needs such as food and water. Human rights standards require that the social aspects of energy provision are considered in energy programming along with the pertinent ecological, economic and technical issues. The implementation of human rights principles, such as non-discrimination, participation, transparency and accountability, is the foundation for positive development 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 the planning of such programmes; transparency and accountability are necessary to avoid and combat corruption.

What do human rights mean 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 Comment 4 of 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.

Access to energy services is the prerequisite for the realisation of many other human rights: about 80 per cent of food is only edible if cooked; many forms of



Cooking over an open fire in Uganda

photo: GTZ/Karin Desmarowitz

medical treatment and the proper storage of essential medicines depend on reliable energy provision. Lighting in households facilitates evening working and learning and, hence, contributes to the realisation of the right to education. Energy is necessary for many economic activities, thus opening up additional sources of income that can be of help in achieving adequate living standards and making regular use of health services. At the same time, however, energy needs to be produced and provided in a cost-effective, ecologically sustainable and climate-friendly way. In addition, the rights of local inhabitants, future generations and people living in other parts of the world must be taken into account. Human rights also set out clear requirements for the delivery of public services, requirements that have a direct bearing on energy policy and programmes. Included here are: the right to be heard and to participate in public decision-making, the right to information, the right to a judicial remedy and, very importantly, the right not to be discriminated against when accessing energy services. The latter right of equal access to energy services also requires that those who are the most disadvantaged when it comes to access should be supported first.

What are the implications of the human rights-based approach in practice?

- > Targeted efforts to increase affordable access to energy services for poor and extremely poor groups in areas with no or insufficient access; tariff design and payment modalities that take into account the needs and ability to pay of poor households; and also actively including these groups through gender-sensitive consultation.
- > Putting a priority on energy provision that has a positive impact on the realisation of human rights and minimises the costs of procuring fuels in terms of time and money, costs that are usually borne by women: this means reliable access for households to affordable energy, in particular for cooking, heating, cooling perishable foods, and for pursuing small business activities and for lighting at home.
- > Human rights do not set out any rules with regard to whether services are provided by private or public suppliers. However, if a state delegates the provision of energy services to the private sector, then it has an obligation to ensure affordable access for all through regulation and supervision.
- > Securing stable energy supplies in hospitals and other institutions that are indispensable for human survival.
- > Improving health and safety at work in extractive industries (oil, gas, coal and geothermal energy).
- > Designing participatory and transparent political decision-making processes for energy sector reforms by including users and stakeholders, in particular in the case of conflicts concerning the use of energy.
- > Improving the accountability of private and public energy service providers, putting in place easily accessible complaints mechanisms and securing judicial remedies so that citizens can find redress for human rights infringements at the planning stage of energy programmes (relating, for example, to contamination of the environment or resettlements) and with regard to energy supply (for example, corruption or tariff design).
- > Taking into account the local environmental and global climate impacts of energy policy measures; focusing on energy efficiency in production and consumption, making a priority of promoting regenerative energy.
- > Carrying out social and environmental impact assessments expanded to include human rights aspects, and establishing adequate monitoring systems (for example, in the case of large-scale energy production projects).

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>

UNDP (2005), Integrating Human Rights into Energy and Environment Programming: A Reference Paper

http://hurilink.org/tools/Integrating_HRs_into_Energy_and_Environment_Programming.pdf

A Human Rights-Based Approach to Sustainable Economic Development

What do human rights have to offer for sustainable economic development?

Economic growth on its own does not lead to sustainable development. The foundation for sustainable development is the respect, protection and fulfilment of human rights. Human rights are based on international, legally binding treaties. The standards developed on the basis of human rights place the focus on people's basic needs and provide legal certainty for companies. Human rights oblige the state to pursue economic policies that result in high levels of employment and decent work for men and women. An orientation towards human rights calls for and promotes inclusive, broad-based and pro-poor economic growth, as well as the achievement of the Millennium Development Goals.

What are the implications of human rights for sustainable economic development?

Human rights primarily regulate the relationship between citizens and the state with regard to rights and duties. They protect the right to own property, as well as the freedom to choose one's occupation and the freedom of association. Furthermore, the International Covenant on Economic, Social, and Cultural Rights (ICESCR) of 1966 establishes the right of all persons to pursue an income-generating activity ("the right to work").

Investments and business activities can have a positive impact on human rights but can also lead to human rights violations, for example through child labour, toxic emissions or forced evictions. Human rights and the ILO core labour standards (such as the prohibition of child labour, forced labour and discrimination, and the right to freedom of association) define minimum standards for a life in dignity and freedom. They also set a framework for economic activities.

In their General Comments, the UN treaty bodies have specified the substance of specific human rights and the corresponding state obligations. The state is obliged to respect human rights. For example, the right to work stipulates that the state must not adopt laws that arbi-



Sorting coffee beans in Peru

photo: GTZ/Richard Lord

trarily exclude persons from the freedom to choose one's occupation. Furthermore, the state has a duty to protect, which it fulfils by regulating and supervising business activity – thereby protecting its citizens from potential human rights violations by companies. Thirdly, the state must adopt suitable economic and social policy measures in order to progressively realise human rights. Among these measures are vocational training and economic policies geared towards employment and poverty reduction.

Unlike the state, companies are not direct duty-bearers under human rights law. However, they are bound by national laws. Nevertheless, there are significant gaps in the international regulation of transnational corporations, in particular, to ensure that their activities conform with human rights. Therefore, in 2005, the UN appointed a Special Representative of the Secretary-General on Human Rights and Transnational Corporations (currently John Ruggie). Since then, a growing consensus has emerged as to what constitutes the corporate responsibility to respect human rights: companies must exercise due diligence in order to

Frequent misconceptions

False	True
The state violates the right to work unless all persons living within its borders have obtained employment.	The state compromises the human right to work if it violates the freedom to choose one's occupation or does not adopt effective measures to enhance decent and productive work. The state also has the duty to create conditions that give men and women the equal opportunity to gain access to work.
Labour standards and social human rights hamper economic development.	Human rights and the ILO core labour standards are non-negotiable, universal minimum standards. They create fair and equal conditions in the labour market. Adequate state regulation of companies creates legal certainty and prevents companies from gaining unfair competitive advantages through the exploitation of people and nature. Labour standards and social human rights are a prerequisite for economic development.

prevent potential human rights abuses and must provide adequate remedies where violations have been committed.

What are the implications of the human rights-based approach in practice?

- > Inclusive economic policies that are geared to reducing poverty and promoting employment by creating the necessary incentives; monitoring the impact of economic policies, in particular on the poor and on marginalised groups.
- > Coordinating economic and social policies. In cases of short- or medium-term deterioration in the human rights situation – for example if the food security of the population is threatened by a switch from food crops to biofuel producing crops and the resultant competition for arable land – the state is obliged to take measures to alleviate the problem, for example by providing basic social protection.
- > Considering the quality of work, in particular as regards discrimination, child or forced labour, trade union rights, as well as decent working conditions.
- > Improving the accessibility of the labour market, and of productive resources such as land and credit, for women and disadvantaged groups (such as young people, minorities and persons with disabilities), with targeted strategies in line with their needs and capacities.
- > Commercial laws that protect and promote human rights; improving the state's capacity to create a regulatory framework for corporate activities and to ensure compliance.
- > Improving judicial and non-judicial mechanisms for complaints and claims in labour law disputes and corporate human rights violations; access to remedies and to compensation.
- > Strengthening of unions and the right to form trade unions; promoting constructive relations between workers and employers (e.g. arbitration bodies to settle collective bargaining disputes), and fostering the dialogue between the social partners and the state on all employment-related topics (such as legislation on minimum wages, occupational health and safety, vocational training, etc.).
- > Increasing numbers of companies adopting voluntary human rights commitments; involvement of the private sector in discussions about their responsibility for human rights, as well as cooperation with the private sector, in order to develop procedures and methods leading to the fulfilment of the corporate responsibility for human rights, also with regard to the recommendations made by UN Special Representative John Ruggie.

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://www2.ohchr.org/english/bodies/cescr/comments.htm>

International Labour Standards of the International Labour Organization
<http://www.ilo.org/normes>

Special Representative of the UN Secretary-General on Human Rights and Transnational Corporations and other Business Enterprises
<http://www.ohchr.org/en/Issues/TransnationalCorporations/Pages/SRSGTransCorpIndex.aspx>

Online Portal Business and Human Rights <http://www.business-humanrights.org>

A human rights-based approach to protecting the environment and natural resources

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

Human rights offer an internationally acknowledged and legally binding frame of reference for shaping development cooperation in the field of environmental and resource protection. A human rights-based approach opens a qualitative perspective on ensuring environmental sustainability (MDG 7). Human rights standards and principles – including participation, non-discrimination and accountability – constitute a legal basis for popular participation in formulating environmental strategies. They also serve as a framework for the targeted promotion of marginalised groups and for establishing environment-related monitoring and complaints mechanisms. The integration of human rights principles into environmental programming increases impact in terms of poverty reduction, gender equality and good governance.

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

The most relevant human rights for this 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 realisation of many human rights, in particular the rights to health, food and water. In addition, they interpret access to, and use of, vital natural resources as an important aspect of the socio-cultural identity of indigenous minorities, and worthy of protection. The development of a separate human right to a clean environment is under discussion. The human rights-based approach focuses on persons and groups that are particularly affected by environmental pollution and



Cycling in Cambodia, photo: GTZ/Richard Lord

the degradation of vital natural resources: in many countries we are talking here about the poor and poorest members of the population. Women in particular and their children often live and work under precarious or dangerous environmental conditions. The human rights-based approach underlines the legal and material responsibility of the state to hold to account those who pollute the environment and to adopt effective measures in this respect. Furthermore, human rights standards require the consent of the stakeholder population for environmental and resource protection measures. 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 country visits as well as on current challenges. In addition, in 2009, the Office of the UN High Commissioner on Human Rights presented a comprehensive study on the impact of climate change on human rights.

What are the implications of the human rights-based approach in practice?

- > Avoidance and/or elimination of environmental pollution and degradation, 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 migration, energy, or social policies).
- > Design of 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.
- > Securing adequate access for indigenous communities to their natural resources (for example, forest protection regulations), 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 marginalised groups; participatory data collection, disaggregated according to gender, ethnic origin and age, among other criteria.
- > Development of instruments for social dialogue, in order to achieve sustainable use of natural resources on a broad social basis and stimulate necessary discussions about generational justice.
- > Promoting the right to information: by supporting 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 human rights organisations: 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 promote the active participation of civil society.
- > Promoting state capacity to fulfil human rights obligations, for example with regard to 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).
- > Promoting civil society participation in negotiations with corporations on environmental and labour conditions; making use of legally binding standards.
- > Considering 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 when deciding about urban development concepts.
- > Establishing administrative and judicial complaints mechanisms, particularly for indigenous groups, so that they can obtain redress/compensation from polluters.
- > Supporting global transparency and accountability initiatives, and being guided by 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 Committee on Economic, Social and Cultural Rights, General Comments (in particular numbers 4, 12, 14 and 15)
<http://www2.ohchr.org/english/bodies/cescr/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: Climate Change and Human Rights
<http://www2.ohchr.org/english/issues/climatechange/index.htm>

International Union for Conservation of Nature, online portal for rights-based approaches to conservation
<https://community.iucn.org/rba1/default.aspx>

A human rights-based approach to democracy, civil society and public administration

Decentralisation and municipal development

What do human rights have to offer for decentralisation and municipal development?

Human rights provide an internationally acknowledged, precise and practice-oriented frame of reference for decentralisation processes and for the design of policies at the local level. They express concrete entitlements to participate in political decision-making and to enjoy non-discriminatory access to basic public services that meet human rights-based needs for basic goods such as water, food, and health. Moreover, human rights allow a qualitative aspect to be added to the Millennium Development Goal of eradicating extreme poverty and hunger (MDG 1), the achievement of which depends not only on the actions of the nation state but also on the actions of those in power at the sub-national level of government.

Human rights-based decentralisation and municipal development also 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 address the root causes of crisis and conflict, and aim for a sustainable, peaceful change in the existing unequal distribution of power and resources.

The specific targets of individual human rights are 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 offer concrete ideas for shaping national and local policy in individual sectors.



Citizens' debate in Nepal, photo: GTZ

What do human rights mean for decentralisation and municipal development?

Everyday municipal life provides obvious examples for the indivisibility and interdependence of human rights: the human rights to food, adequate housing, health and education contain binding targets for the design of the respective basic services; freedom of speech and freedom of association entitle people to gather information and to organise 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 remedial administrative and judicial mechanisms, these are the prerequisites for a legal framework that enables the population to effectively exercise a check on state action.

Under human rights law, the state is obliged to account for the implementation of human rights at all levels. This obligation relates to its lawmaking, administrative measures and judicial decisions. These obligations are most easily managed and monitored at the local level, since the relationship between citizens and the state is

more immediate there than at the national level. Locally, policies can be oriented closely towards human needs; misconduct and corruption, and their causes, are likely to be much more traceable at the local than at the national level.

If decentralised government and administration have 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 reducing conflict.

In order for that to happen, local level capacities for responsible and accountable governance must be strengthened. In addition, opportunities for socially disadvantaged groups to participate must be secured through the respective design of the legal framework and participatory processes at the local level (examples include gender-differentiated citizen budgeting, human rights budgeting or human rights-based public expenditure tracking).

Although it remains challenging, the monitoring of policies and strategies is also easier at the local level, but still requires data disaggregated by population groups to show whether set goals of specifically supporting disadvantaged social groups or regions have been achieved.

What are the implications of the human rights-based approach 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 to target the inclusion of

marginalised regions and groups; when privatising public services, one priority must be to secure compliance with human rights obligations through regulation and monitoring.

- > Increased vertical accountability through the respective design of a legal framework for decentralisation which, for example, secures municipal competencies, creates incentive systems for municipalities, safeguards participation (for example, by means of a quota system for women or minorities), and reforms public service to operate on the basis of clear responsibilities and coherence.
- > Increased horizontal accountability whereby participation, complaints and monitoring mechanisms for public affairs and services are institutionalised at the local level, particularly and above all in respect of public procurement with a view to avoiding corruption; strengthening 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).
- > Strengthening political participation through the empowerment of women and disadvantaged groups: for example, by giving support to civil society organisations working to empower marginalised persons and groups (representation of interests and political participation).
- > Achieving 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 services.

Further reading

UN Treaty Bodies, General Comments

<http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

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

<http://rmap.undp.ba>

International Council on Human Rights Policy, Local Government: Links with Human Rights

<http://www.ichrp.org/en/projects/116>

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

<http://www.ichrp.org/en/projects/124>

A human rights-based approach to democracy, civil society and public administration

Judicial reform

What do human rights have to offer for the judicial sector?

The overriding goal of judicial reform is to enshrine the rule of law. This requires a functioning, independent judiciary and transparent and effective legislation and administration. Human rights set out minimum requirements for the judicial sector and offer an internationally acknowledged and legally binding framework for shaping it. 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 principles of non-discrimination and the right to participation promote access to justice for disadvantaged persons and groups, and thus contribute to combating poverty and achieving gender equality.

What do human rights mean for the judicial sector?

The human right to “be equal before the 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 UN Human Rights Committee monitors the implementation of the ICCPR and has defined four basic guarantees (see



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

below) as the substance of this human right in its General Comment No. 32 of 2007.

Other human rights immediately relevant to the justice sector are established in articles 9 and 10 of the ICCPR. They are human rights guarantees in the case of arrest or detention, pre-trial custody and imprisonment. In addition, article 2 of the ICCPR obliges the state to take whatever constitutional or legal 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.
A fair and public hearing	In principle, hearings must be public, without political or personal influence being exerted; trial proceedings must be concluded within a reasonable amount of time.
A competent, independent and impartial court or tribunal established by law	Separation of powers between parliament, public administration and judiciary; all courts and tribunals must be established by law; judicial impartiality must be ensured through clear and objective requirements regarding appointment, qualification, and exercise of powers as well as through corresponding disciplinary rules; judicial decisions must be based solely on the law.
Special requirements for criminal trials	Presumption of innocence; access to judicial remedies and to legal counsel as additional guarantees in criminal trials.

Frequent misconceptions

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, gender-specific appraisal of offences, leading to different sanctions) must be observed.
Special courts and tribunals are generally not compatible with human rights.	Special 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.

The UN Special Rapporteur on the Independence of Judges and Lawyers, first appointed in 1994, undertakes regular country missions and provides annual reports on the structural challenges in the judicial sector.

What are the implications of the human rights-based approach in practice?

- > Equal access for poor and marginalised groups to the legal and judicial system, in particular for poor women, by eliminating actual 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 discrimination in judicial proceedings, in particular with regard to women and members of marginalised groups, particularly as evidenced in different lengths of proceedings and custody, and different rates of convictions; provision of victim protection as necessary.
- > 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 security; 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 organisations in all areas.
- > Promotion of systemic relationships between the judiciary and administrative 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, Right to equality before courts and tribunals and to a fair trial (CCPR/C/GC/32)

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

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, Local Perspectives: Foreign Aid to the Justice Sector

<http://www.ichrp.org/en/projects/104>

A human rights-based approach to democracy, civil society and public administration

Fighting corruption

What is the connection between human rights and the fight against corruption?

Corruption has a devastating effect on human rights. Corruption deprives the state of money for human rights-based services such as health, education, water supply and sanitation. Moreover, corruption impedes access to resources such as land and justice. Corruption has a disproportionately negative effect on people who hold no economic or political power, and exacerbates their vulnerability and poverty.

Corruption and infringements of human rights reinforce each other, and usually arise from weak and undemocratic governance. In many places, activists fighting corruption and human rights violations are systematically denied their right to demonstrate and to assemble peacefully, and find themselves the victims of intimidation or persecution – all meant to keep them from carrying out their work.

What do human rights have to offer for the fight against corruption?

Human rights set limits to states' power and spell out the obligations that the state must observe with regard to its citizens' liberties. Corruption is always an abuse of power. Human rights can be used as a frame of reference to define minimum standards of protection against abuses of power through corruption, and thus enable people to hold the state accountable if they are violated. Human rights can also be a useful framework for analysing the social causes of unequal distribution of power and the incentives for corruption; such an analysis also identifies rights and obligations, and those holding those rights and those bearing the obligations to fulfil them.

Even if the international human rights conventions do not explicitly refer to corruption, the United Nations treaty bodies, and in particular those responsible for the two international treaties governing civil and political rights (the ICCPR or "civil rights covenant"), on the one hand, and economic, social and cultural rights



Raising awareness about corruption in a school in Sierra Leone, photo: GTZ/Dedo Geinitz

(the ICESCR or "social rights covenant"), on the other, have frequently identified such a correlation in their interpretations – referred to as "General Comments" – as in the following:

- > Human rights stipulate the right to take part in political decision-making processes (ICCPR Article 25) and the right to a transparent and accountable system of administration (ICCPR Article 2). They thereby strengthen efforts to prevent and fight corruption by placing inclusivity, transparency and accountability in an internationally legitimised and legally binding framework.
- > The human right to non-discrimination requires the protection, inclusion and empowerment of marginalised people and groups (Article 2 in both ICCPR and ICESCR), who are particularly often the victims of corruption and abuse of power.
- > The human right to hold an opinion (ICCPR Article 19) encompasses the right to seek, receive or impart information, and places a corresponding obligation

on the state to provide information. This includes information on the use of public funds. The right to hold and freely express an opinion, the right to peaceful assembly and the right to freedom of association with others (ICCPR Articles 19, 21 and 22) also enable people to join forces against corruption.

- > Human rights set minimum standards that citizens can expect with regard to public services provided by the state (cf. ICESCR Articles 6 to 14). For example, health care must be available, accessible, affordable and of reasonable quality. Corruption undermines all of these requirements. Therefore, the standards defined by individual human rights provisions help not only to expose and denounce corruption, but also to formulate objectives for public services free of corruption.
- > The established mechanisms for the protection of human rights – amongst others, the submission of parallel reviews as part of the process of peer reviews and universal periodic reviews, as well as appeals to national and international complaints offices – can be used to draw attention to corruption and its effects on human rights.

What are the implications of a human rights-based approach in practice?

- > People must be informed of their rights vis-à-vis administrative bodies and the justice system, and of the consequences of corruption, for example through awareness-building campaigns that educate pupils, parents and teachers about the effects of corruption and how to prevent it.
- > The vulnerability of disadvantaged and marginalised groups as potential victims of corruption must be reduced. This can be achieved by strengthening such groups so that they know their rights and can pursue legal or other remedies to obtain them, and can support the fight against corruption.

- > Transparency and accountability at all levels of public sector activity must be improved.
 - Legal prosecutions must be strengthened. This can be achieved by improving the framework conditions for an independent judiciary and public prosecutor, and strengthening effective investigative bodies, for example by appointing special investigators or setting up better witness protection programmes.
 - The parliament must be strengthened in its role as political corrective and as the supreme body controlling government action, for example, by improving the technical competence of the budget committee or by formalising internal parliamentary procedures.
 - National supervision mechanisms and complaints procedures must be improved. This can be achieved by strengthening the independence of courts of audit, improving public access to their reports, and supporting the independence and functioning of national human rights institutions, anti-corruption commissions and ombuds institutions.
 - Public and official planning, auditing and tendering procedures in all areas of public administration (including health care, use of natural resources, construction and education) must be improved, income and expenditure accounts published, tariffs and payment methods publicised, and civil society's opportunities for participation in and information about these procedures enhanced. This can be achieved, for example, by permitting citizens to participate in budget planning or to assess the quality of public services (through citizen report cards).
 - Civil society organisations must be strengthened and their capacity enhanced so that they can carry out campaigns to educate the public, offer legal aid to the poor, support human rights activists and anti-corruption campaigners, and effectively monitor public administration.

Further reading

UN Treaty Bodies, General Comments

<http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

International Council on Human Rights Policy, Corruption and Human Rights: Making the Connection

<http://www.ichrp.org/en/projects/131>

International Council on Human Rights Policy, Corruption and Human Rights: Integrating Human Rights in Anti-Corruption Agendas

<http://www.ichrp.org/en/projects/1312>

A human rights-based approach to conflict prevention and peacebuilding

What is the connection between human rights and conflict prevention and peacebuilding?

Human rights abuses can be both the cause and the result of conflict: violent conflicts often cause injuries to life and limb, population displacement and the destruction of housing and agricultural land. In addition, the systematic violation of human rights such as the right to freedom of opinion or religion, or the right to education or access to health services, can lead to violent conflicts – in particular when such human rights violations are directed at certain groups such as ethnic or religious minorities.

Where the process of development is geared towards the realisation of human rights, it helps to prevent conflicts of this nature and fosters sustainable development. The human rights enshrined in the covenants on civil and political rights (ICCPR) and on economic, social and cultural rights (ICESCR) provide an internationally acknowledged, legally binding and practice-oriented framework for a concept of human security, which comprises not only the absence of violence but also the realisation of human rights and the rule of law. Furthermore, human rights define normative minimum standards for compensating the victims of violent conflicts and for prosecuting war crimes and human rights violations.

What do human rights mean for conflict prevention and peacebuilding?

Human rights oblige the state as duty-bearer to observe and uphold these rights, protect its citizens from human rights violations through third parties and ensure that all human rights are fulfilled. However, particularly in fragile or conflict-riven countries, states themselves may violate human rights, or may be unwilling or unable to prevent violent non-state actors from violating human rights. Such non-state actors are not directly bound by international human rights law. However, they are bound by parts of International Humanitarian Law; the universal prohibitions of war



Understanding conflict: non-violent communication in Sri Lanka, photo: GTZ

crimes, crimes against humanity and genocide; as well as by their countries' national laws.

Human rights provide the foundation for people to be able to develop their full potential and shape their lives within their communities. The principle of non-discrimination obliges states to improve the situation of those individuals and groups, for whom it is particularly difficult to access human rights. States and donors alike can use these rights as a frame of reference for reducing social inequality, and thus a potential cause of violence, and for building peace.

Within the scope of transitional justice measures, international human rights law demands that human rights abuses are adequately addressed. This is a fundamental requirement if a reconciliation process within a society is to be recognised as legitimate. In addition, the human rights principles of non-discrimination and equality of opportunity, participation and empowerment, transparency and accountability offer guidance for designing further transitional justice measures such as reconciliation commissions and memorialisation efforts. All groups in society should be able to comprehend such measures, and to access and shape them.

Frequent misconceptions

False	True
Human rights are a state's internal affair.	States are primarily obliged to realise human rights within their borders. In addition, the international community is obliged to respect and protect human rights in their foreign policy actions, and to support other states in their efforts to realise human rights – in particular in the context of prevention and reconstruction. The principle of “responsibility to protect”, adopted by the UN Member States in 2005, does not rule out military intervention as a last resort to put a stop to human rights violation, as long as it is in accordance with the UN Charter.
Advocating human rights in fragile states leads to violence.	Systematic human rights violations, in particular against ethnic or religious minorities, are a major potential source of conflict. That is why protecting and strengthening such groups' human rights is an integral part of conflict prevention and peacebuilding. The necessary transformation processes will be more widely accepted by society when they take into account human rights principles such as non-discrimination, empowerment, transparency and accountability. On the other hand, human rights campaigns with explicit accusations of human rights violations and naming of the perpetrators can initially increase the potential for conflict in a society. It is therefore essential to analyse which entry points and scope exist for development cooperation policies that are both human rights-based and geared to preventing conflicts, and to coordinate measures towards these policy aims. In this context, measures to protect human rights defenders play a key role.

In order to report on the situation of groups who are affected particularly severely during and following armed conflicts, the United Nations appointed a Special Representative on Children and Armed Conflicts in 1996, and a Special Rapporteur on the Human Rights of Internally Displaced Persons and a Special Advisor on the Prevention of Genocide in 2004. UN Resolution 1325 calls on UN Member States to give special protection in armed conflicts to women, and to further their equal participation and full involvement in the peace process.

What are the implications of the human rights-based approach in practice?

- > Integrating a perspective that includes all human rights – i.e. civil, political, economic, social and cultural – into early warning systems, conflict analyses and conflict prevention strategies.
- > Targeted reduction of factors that lead to discrimination or prevent people's access to basic public services, as well as political empowerment and strengthening the cultural rights of marginalised groups – including ethnic and religious minorities and women.
- > Special attention to be given to discriminated and/or marginalised groups when distributing resources during reconstruction.

- > Improving rule of law and non-discriminatory practices within the security sector, for example by sensitising personnel and making them aware of peacebuilding and human rights issues, as well as by specifically recruiting women and people from minorities.
- > Providing civil mechanisms for conflict resolution by setting up official complaints and monitoring procedures at decentralised level, which are participatory, non-discriminatory, and sensitive to gender-specific and conflict-inducing issues.
- > Taking into account human rights standards in the prosecution of crimes of violence, and providing legal support, compensation and reparation to the families of victims and survivors of such crimes.
- > Developing strategies for the reintegration of former combatants, which do not give the impression that the “perpetrators” receive preferential treatment.
- > Integrating economic, social and cultural rights within the mandate of truth commissions.

Further reading

UN Treaty Bodies, General Comments

<http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

International Council on Human Rights Policy, Peace Agreements: The Role of Human Rights in Negotiations

<http://www.ichrp.org/en/projects/128>

Dudouet/Schmelzle (eds.) 2010, Human Rights and Conflict Transformation: The Challenges of Just Peace

<http://www.berghof-handbook.net/dialogue-series/no.-9-human-rights-and-conflict-transformation/>

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