

## **Questionnaire (non-State actors)**

### **1. Please describe the role and responsibilities of your organization in the water and sanitation sector.**

Since 1979, Action Contre la Faim (ACF) International shares an overall vision of a world where everyone has access to sufficient food and water that they are able to attain with dignity. We provide 7.9 million people around the world with access to safe water and sanitation. In 2016, ACF has undertaken more than 120 WASH projects in 46 countries, in development, emergency and rehabilitation settings.

ACF's approach to undernutrition combines treatment with an integrated preventive approach based on the conceptual framework of undernutrition. Proper access to safe water, sanitation and to a hygienic environment is intrinsic to addressing the issue of undernutrition. The basic causes of undernutrition, especially the issue of governance and national priorities are targeted by ACF through focused advocacy projects and communication campaigns, as these are what underpin the overall conceptual framework.

ACF's approach to disasters is to intervene both at local and international levels, carrying out direct interventions for beneficiaries as well as becoming actively involved in coordination bodies such as the Global Clusters. The ACF approach concentrates on vulnerability reduction, risk management and response to crises (emergency response, preparedness and EPRP, mitigation, resilience building and adaptation to climate change). ACF intervenes from emergency through to development, in more than 45 countries, with about 5,000 staff. In addition to the clusters, ACF is an active member of key networks such as End Water Poverty, Sanitation and Water for All and Partenariat Français de l'Eau. ACF is also a member of the SPHERE project.

ACF's key orientations:

- Align nutrition & care practices with WASH projects
- Special focus on urban context (nearly 1/3 of ACF WASH projects in 2011)
- Priority to Sanitation sub-sector
- Increased humanitarian emergency response (especially related to climate changes), with better coordination and preparedness, especially through the Humanitarian Reform mechanisms (Clusters)
- Advocacy for a better recognition and funding of the global WASH sector
- Advocating for States to promote access to water and sanitation services, starting by the most vulnerable populations

### **2. How can a regulatory framework (e.g., legislative, institutional, policy) and bodies contribute to the realisation of the human rights to water and sanitation? Please provide examples.**

It is key that human rights principles inform the development of legislative frameworks, policies, programmes, budgetary allocations and other measures. However, without good governance, human

rights cannot be respected and protected in a sustainable manner. The implementation of human rights relies on a conducive and enabling environment. This includes appropriate legal frameworks and institutions as well as political, managerial and administrative processes responsible for responding to the rights and needs of the population.

For ACF strengthening governance in the areas of operation has proven to be a key component to the humanitarian response, along with human-rights based approaches. We have recently undertaken five WASH governance analysis in the Philippines, Kenya, South Sudan, Djibouti and Pakistan. We also implement governance focused projects in Lebanon, Palestine and Gaza. Similar trends were found across the countries, such as the fragmentation of the WASH sector, the limited capacities at local level, and the lack of data or limited community engagement.

ACF has analyzed WASH governance in South Lebanon regarding the institutional and regulatory framework, the local institutions capacity gaps and how the WASH governance does not allow the most vulnerable to have access to services. In the OPT, ACF is contributing to the Palestinian Water Authority master plan in area C to ensure access to WASH services, not only to guarantee the right to water, as well as a protection measure to avoid forced population displacement.

Both experiences showed the gaps and constraints the operators are facing in those contexts. In South Lebanon, the Water Ministry and Water Establishment are lacking staff and capacities. The linkages between them and municipalities are weak. Updated water management and safety plans are missing. Therefore, targeted assistance and capacity building is required to solidify new practices and management techniques, especially regarding wastewater management, coupled with better storage and distribution systems for water, and an increased effort to develop the existing water transportation and delivery infrastructure. Building trust of the users is also critical.

**3. Are the contents and principles of the human rights to water and sanitation generally reflected in regulatory frameworks? How do you assess your country's regulatory framework in this regard? Please provide examples of other countries if available.**

From our experience we can highlight the examples of Pakistan, where the National Drinking Water Policy (2009) aims at provision of clean and safe drinking water for all at an affordable cost and in an equitable, efficient and sustainable manner by 2020. The right to safe drinking water is recognized, along with the prioritization of domestic uses in water allocation. It promotes the involvement of communities in planning, monitoring, operation and maintenance of services, including women and children; public private partnerships, capacity development and awareness campaigns. It is now in the process of being revised to fit with the SDGs and to answer better to current issues, such as the link between urban and rural areas. The government claims it will be adopted in 2017.

Other examples in countries where we work include Afghanistan: (Afghanistan Rural WASH policy document 2010-2014), Chad (Code de L'Eau : Décret N° 016/PR/99; Code de l'Assainissement : 30 Avril 2003; Schémas directeur de l'eau et Assainissent Avril 2003), the Philippines (municipal ordinances in Cotabato), Nicaragua (Water Law), Kenya (Constitution, Kenya Environmental Sanitation and Hygiene Policy 2016 – 2030) and South Soudan (Water Policy, 2007).

**4. Please provide examples of situations where the lack of regulation, or inadequate regulation, in the water and sanitation sector could potentially lead to, or has actually led to, violations of the human rights to water and sanitation.**

Examples can be anywhere where there is a lack of regulatory framework or of its enforcement, as well as where certain populations are excluded from this framework. Examples of contexts requiring special attention:

- Slums and informal settlements: often government are not taking these populations into account and lack of security of tenure in informal housing settlements is often used as a reason to deny households or communities a connection to formal water and sanitation networks. Kenya is one example where the government has refused to recognize the areas and therefore to enable adequate services.
- In conflict and humanitarian crisis contexts, like Syria and Occupied Palestine Territories, where water is being used as a weapon of war. In the West Bank, due to limited financial resources and capacities, and to Israeli restrictions, the Palestinian Water Authority has not been able to develop master plans. In Nigeria, Somalia, South Soudan and Yemen, where WASH infrastructures are being destroyed by the conflicts (up to 75 % in Nigeria) , with a critical impact on internally displaced populations (IDPs)and refugees. In Nigeria, WASH humanitarian standards have not been met in temporary IDP sites as 37% of IDPs are receiving less than 15 litres of water /person/day. In South Soudan, WASH infrastructure has been deliberately targeted by armed actors during the conflict and ccess to safe water in urban areas has reduced as a result of rapidly rising prices.

**5. What are the main challenges or obstacles encountered when trying to incorporate contents and principles of the human rights to water and sanitation into regulatory frameworks?**

Key factors are political will and lack of awareness of all the criteria and principles that give meaning to these rights, the focus being mainly on access but less for instance on quality or affordability. Likewise, little understanding that the cross cutting principles should be systematically included: non-discrimination, access to information, participation, accountability. The new SDG framework and its 6.1 and 6.2 targets is a good opportunity to go beyond “improved water and sanitation access” towards the full realization of these human rights.

If the human rights to water and sanitation are to have an impact at the national level, States must set clear standards; for example, on the quantity and continuity of water provision and the maximum time and distance people should have to travel to facilities. This is not always the case and does therefore not facilitate adequate regulation.

**6. Please provide specific examples of good practices where a human rights-compliant regulatory framework has led to the progressive realisation of the human rights to water and sanitation.**

In the Philippines, in the province of Masbate, one of the poorest in the country and where 1 in every 2 persons practiced open defecation, ACF supported efforts to put in place a regulatory framework for the realization of the right to sanitation: institutionalization of Zero Open Defecation (ZOD)

communities; institutionalization of WASH Councils or Task Forces; mainstreaming WASH in development plans; passing Municipal sanitation ordinances. As a result, Masbate was one of the first 11 municipalities in the country that achieved ZOD status certified by the Department of Health.

Another example is the regularization of the service of water supply by trucks in the West Bank with the support of ECHO and the WASH Cluster.

**7. Non-State actors have the responsibility to respect the human rights to water and sanitation and to exercise human rights due diligence in their operations. How should a regulatory framework reflect this responsibility? Please provide examples.**

In the legal framework specific to the provision of water and sanitation services, regulations should contain positive measures or affirmative action for disadvantaged individuals and groups. These should include targeted investments to eliminate disparities, as well as measures to make water and sanitation services affordable for poor people. Enforcement is crucial in order effectively to outlaw potential discriminatory practices and exclusion by private sector actors.

**8. Which model of regulatory mechanism would facilitate stronger compliance human rights standards by service providers? Why? What are advantages and disadvantage of an independent and autonomous regulatory body?**

It is the State's obligation to ensure independent monitoring of all components of the human rights to water and sanitation, as well as to scrutinise the monitoring undertaken by other national entities or bodies, such as (private or public) service.

In order for this to be effective, the human rights to water and sanitation should be recognised in legislative, policy and regulatory framework. The independent regulatory mechanism should be equipped with adequate means to monitor and to react in case of non-compliance.

**9. What mechanisms should be in place to ensure that the voice of persons and communities in vulnerable situations is heard and their needs are taken into consideration in the regulation of water and sanitation services? Please provide positive and negative examples.**

The right to participation including of those in most vulnerable situations should be part of the legal and policy frameworks. An example from Pakistan, 2009 National Drinking Water Policy: 6.5 Community Participation and Empowerment (i) Participation [of] communities, especially women and children, in planning, implementation, monitoring, and operations and maintenance of water supply systems will be encouraged, to promote community ownership and empowerment as well as sustainability.

Legal and policy frameworks however should be as detailed as possible in setting out the institutions and procedures that will enable participation at the various stages of decision-making. Opportunities

for people to engage should be spelled out, and the responsible institution clearly identified. Without this, the right to participation can remain merely aspirational.

In ACF's experience, the use of new technologies been very positive in facilitating participation. The imposition of scaled intervention models has not worked, yes so the creation of demand and the generation of intervention models from the community. A short-term approach has proved to be a main barrier for this type of methodology.

**10. What measures could be envisaged in a regulatory framework to promote transparency and tackle corruption in the water and sanitation sector?**

The right to access information must be an integral part of legal frameworks that relate to the provision of water and sanitation services. Legislation should require that adequate resources are devoted to ensuring access to information, and that access to information regarding water and sanitation services is available to all.

Data and information on water and sanitation provision that are held by public authorities and third parties, and are of direct concern to stakeholders, should be publicly available, including online. Information must be made accessible and understandable for everyone, including, for example, people who speak a minority language or are unable to read.

Build the case by defending how the existence and sharing of reliable data is key for the sector, as it allows a better targeting and planning of the projects, a more efficient implementation, a better monitoring of the stakeholders' activities. Moreover, in a country that often experiences water-related disaster (floods, droughts, diseases, etc.), it hinders good preparedness. Likewise, as there is very little information regarding availability and quality of water resources, it is complicated to allocate water in a fair and sustainable manner.

From our experience, we can highlight a good example from Pakistan, where the National Drinking Water Policy, 2009, includes: Public Awareness (i) Intensive information, education and communication campaigns will be developed and implemented to promote water safety, water conservation and safe hygiene practices. To this effect, a National Behavioral Change Communication Strategy will be formulated and implemented.

We have on the contrary experienced great difficulty in accessing water related policies and strategies in countries like Djibouti, as they are not publicly accessible even on demand.