

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

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



Questionnaire

**February, 2010
Geneva**

Introduction

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

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

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

Methodology of the Good Practices consultation process

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

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

The Good Practices Questionnaire

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

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

Explanatory note: Criteria

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

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

Actors

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

Practices

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

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

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

- drinking water; and/or
- sanitation

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

Description of the practice:

Name of the practice:

Building the role of local government in the promotion of the right to water in rural areas, through long term support to sustainability of community managed services.

Aim of the practice:

Develop a District Water and Sanitation Unit Support (DWUS) into the District Council to support community managed services in the long term.

Target group(s):

Local Government Authorities in decentralized countries

Partners involved:

Local Government: Same District Council, Tanzania
Ingeniería Sin Fronteras-Asociación para el Desarrollo (iNGO)

Duration of practice:

12 months for initial facilitation. 6 months for training of the team.

Financing (short/medium/long term):

In the short term, the facilitation was guaranteed by the NGO.
Now, the District Water and Sanitation Unit budget is included in the District annual budget. Costs are mainly transport, allowances and materials to give continuous follow up to community managed services throughout the District.

Brief outline of the practice:

It is well known that the sustainability is the great challenge for rural water supply and sanitation services. Generally, the most frequent reason for the systems to collapse or stop operating is the poor management of their respective Water Users Entity (WUE). Frequently this happens because those WUEs are left by donors and

implementing partners without any further close follow up to ensure its sustainability after the implementation project is ended. Full life-cycle costs of the services have to be covered by cost recovery systems run by WUEs holding all the responsibility alone for management and administration. In Tanzania, Government estimates that 30% of systems constructed are not functional. A more recent study estimates that currently 46% of water points are non-functional and 25% of WP are not functional 2 years after installation (Wateraid, 2009).

In the policy, Local Government Authority (LGA) is the focal point for decentralized implementation with a pivotal role to play in promoting demand at the community level, planning, providing support, and monitoring implementation of community projects. Nevertheless, there are no institutional arrangements in place that facilitate this role of support in the long term to be implemented.

As a result of that, this “good practice” reports the formation of a District Water and Sanitation Units Support (DWUS) to be based on District Councils, that will be responsible for the coordination of all issues pertaining to the establishment, organization and management of Water Users Entities (WUE) and Community Based Organizations (CBOs).

The expected outputs of this practice are the following:

- a. Increased number of WUEs established and legalized in the District.
- b. Increased number of WUEs supported with timely assistance, regarding any kind of operational challenge and/or conflict they might face (e.g. legal, O&M, land property...)
- c. Improved information available at District level about management of rural water and sanitation services
- d. Increased level of coordination achieved between all stakeholders.
- e. Increased trained personnel’s District Council on the issues of WUEs formation and sustainability.

As challenges for sustainability are wide and complex, the DWUS is a multisectoral team, composed by the following departments:

- Water department, as the leading department of the unit
- Finance department, as the unit will deal with financial management of WUEs and CBOs.
- Health department that will provide support as far as hygiene and sanitation are concerned.
- Community development department that will provide support on promoting community awareness and launching of campaigns as far as water and sanitation issues are concerned.
- Education department, that will provide support to water and sanitation in schools.

Some other members of departments will be consulted and called as invitees to meetings when needed. These are:

- District land department will provide support as far as the issue of ownership and land rights are concerned.
- District forest and natural resource department will be involved in the protection and preservation of environmental in general, and water sources in particular.
- District legal department will be assisting and supporting WUEs and W&S CBOs in all matters pertaining to legal issues.

In order to achieve the expected results, some of the daily functions of the DWUS are hereunder detailed:

- Supporting the process of establishment and legalization of WUEs.
- Implementing a system of regular field monitoring and evaluation visits, including quality measurements according to an established plan.
- Ensure sustainability of WUEs and CBOs by;
 1. Providing advice and support to WUEs in terms of both technical issues and the operation of water system as well as the implementation of hygiene and sanitation through CBO.
 2. Empowering WUEs and CBOs by capacitating them in terms of management and resources mobilization.
 3. Supporting WUEs and CBOs to make their operation and maintenance plan and a hygiene and sanitation plan, when appropriate.
 4. Help to solve any circumstances that may hinder the performance and efficiency of WUEs and CBOs in village, ward and District level.
 5. Supporting the link between WUE, and higher authorities, such as District Council and Basin Office.

This practice has been piloted in Same District, Tanzania. It has already been approved, members have been designated, and budget has been allocated for the team to be operational.

The impact of the practice can be very high, since it is focused on the main problem of the rural W&S services, the low sustainability, while increasing the responsibility of the LGA as duty bearers.

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

Explanatory note: Availability

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

Answer:

The main purpose of the DWUS is to support community Water Users Entities for the management of the services. This includes reliability, and continuity of the supply, as well as the planning and implementation of extensions in the service.
Community Sanitation plans will also be facilitated by the DWUS.

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

Explanatory note: Accessibility

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

Answer:

The main purpose of the DWUS is to support community Water Users Entities for the management of the services. This includes among others, the planning and implementation of extensions in the service to increase accessibility.

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

Explanatory note: Affordability

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

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

Answer:

The DWUS is composed by a variety of different departments, as described above. Among those, there is the finance department, that will support the financial management of WUEs and CBOs. This will be focused on the transparent management of funds, but also, with possible tariff structures that ensure access to services for all. Criteria to respect human right to water will be developed in the training of the DWUS members.

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

Explanatory note: Quality/Safety

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

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

Answer:

As regards water services, the DWUS will implement a system of regular field monitoring and evaluation, including quality measurements according to an established plan. Quality testing has been already promoted in the area by the supporting NGO. Kits for basic quality testing are available at District level.

As regards Sanitation, the DWUS will promote community sanitation action plans. This will include quality and safety of the devices.

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

Explanatory note: Acceptability

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

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

Answer:

DWUS is formed to assist the community managed services. Hence, they will not impose any kind of technical solution, but to support the community with their proposals.

6. How does the practice ensure non-discrimination?

Explanatory note: Non-discrimination

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

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

Answer:

DWUS members are trained on the principles and practices of human right to water and sanitation. Hence, in their monitoring visits and support, they will be vigilant to discover discriminatory practices and try to solve them with the community.

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

Explanatory note: Participation

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

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

Answer:

DWUS is formed to assist the community managed services. Among the key aspects that will be supported is the internal democracy of the Water Users Entity, and the promotion of full participation and scrutiny from the final users of the service, as a key ingredient for sustainability.

8. How does the practice ensure accountability?

Explanatory note: Accountability

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

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

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

Answer:

DWUS is formed to assist the community managed services. Among the key aspects that will be supported is the internal democracy of the Water Users Entity, and the promotion of full participation and scrutiny from the final users of the service, as a key ingredient for sustainability.

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9. What is the impact of the practice?

Explanatory note: Impact

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

Answer:

The impact can be very high, if the DWUS is able to reduce the current trend of unsustainability of the community managed services, especially in the first years of operation (25% of non operational services in the first 2 years).

10. Is the practice sustainable?

Explanatory note: Sustainability

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

Answer:

The practice is sustainable, as DWUS members have been officially appointed, and budget has been allocated for its operation, without financial external support.

Final remarks, challenges, lessons learnt

The DWUS was created in 2009. It is thus soon to detect challenges. However, it is clear that continuous training of the DWUS members in the principles and practices of the human right to water need to be ensured, for its promotion at community level.
In terms of governance, it is a good practice that could be extended to many other places where responsibilities are decentralized as regards W&S services.

Submissions

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

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

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

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

For more information on the mandate of the Independent Expert, please visit
<http://www2.ohchr.org/english/issues/water/Iexpert/index.htm>