

Achieving systemic change in WASH through the Human Rights Based Approach

Type: Short Paper

Authors *Apollos Nwafor, Regional Advocacy manager, WaterAid (West Africa) apollosnwafor@wateraid.org
Landry Ouangre, Policy Officer, WaterAid Burkina-Faso, landryouangre@wateraid.org*

Abstract/Summary

The Human-Rights-Based Approach (HRBA) aims to ensure access of the poor and marginalised to safe water, hygiene and sanitation in a sustainable manner. When implemented, this approach will raise community awareness to claim their rights and increase accountability and responsiveness of authorities to meet demands. Integrated into a 2 year pilot programme in West Africa that started in Burkina Faso in 2014, the approach has already reaped a number of successes including the integration of the right to WASH in the national constitution, a key recommendation made during the national water forum. Locally, the HRBA has empowered authorities and staff of relevant partner organizations in Burkina Faso and Ghana to raise communities’ awareness of their right to WASH as well as to strengthen the commitment of both the right holders and duty bearers through influencing policy processes. WaterAid will keep its advocacy efforts on the right to access and scaling up of the HRBA. This paper draws on the experience of implementing the HRBA in Burkina Faso, documenting both the challenge and opportunity that the political uprising presented for its implementation. The paper concludes by highlighting the successes and the lessons learnt, important not only for the WASH sector, but for wider rights-based interventions.

Introduction

WaterAid’s work is driven by a firm belief that access to safe water, sanitation and hygiene is vital for health, education and livelihoods, and forms the first essential step in overcoming poverty - the people who are most deprived of their basic WASH needs are typically the poor and the marginalised (Unicef and WHO, 2011). While access to safe water and sanitation are now recognised as universal human rights, its fulfilment in practice remains a crucial challenge for the West African region post-2015. The current Sustainable Development Goals present an opportunity to address the growing inequalities in access and challenges of sustainability in the region and in Burkina Faso more specifically.

The HRBA underlines the multidimensional nature of poverty, describing poverty in terms of a range of interrelated and mutually reinforcing deprivations, drawing attention to the stigma, discrimination, insecurity and social exclusion associated with poverty (OHCHR, 2002). The principles of the human right to water and sanitation include non-discrimination and equality, access to information and transparency, participation, accountability and sustainability (Right to Water, 2003). The HRBA is a way of applying these principles to support people in accessing WASH services and in turn to help them walk away from poverty.

WaterAid has been gradually building its knowledge and capacity on the application of the HRBA to help achieve universal access (Gosling, 2014). The approach has already been piloted in Burkina Faso as part of a wider action learning initiative involving 8 WaterAid countries in Africa and South Asia. Under this learning initiative, the essential feature of the HRBA of working with numerous actors was highlighted. Key stakeholders included: (a) ‘rights holders’, especially the most marginalised and vulnerable individuals and groups; (b) ‘duty bearers’ at all levels of government; (c) partner agencies who delivered project activities and (d) WaterAid staff. Other essential features were (1) identification of the poor, (2) recognition of the relevant normative national and international human rights frameworks, (3) equality and non-discrimination, (4) participation and empowerment, (5) progressive realisation of human rights, and (6) monitoring and accountability (Hunt et.al., 2004) which is consistent with the need to increase social accountability and widely endorsed by development actors like the World Bank (World Bank Social

Accountability Sourcebook, 2004).

Having already carried out an analysis of power, rights, risks and barriers to WASH access during the pilot initiative, WaterAid Burkina Faso (WABF) staff were well positioned to capitalise on the opportunity that the political crisis presented in 2014 to further implement the HRBA to improve WASH access.

Context, aims and activities undertaken

In October 2014, Burkina Faso experienced a popular uprising that led to regime change and a new political leadership. This political situation led to the dissolution of Parliament, replaced by a National Transitional Council (CNT); Special Delegations (DS) also replaced the Municipal Councils. These new unelected officials were arguably not accountable to the people and were not in a position to serve their needs: their primary responsibility was the implementation of a government-designed programme that in all senses was not based on the HRBA principles. The uprising also saw the emergence of a strong civil society movement (including youth and womens groups) that kept an eye on the country’s governance and increased political pressure to positively influence change.

The human rights to water and sanitation guarantee the obligation of the state as the ‘duty bearer’ to protect, respect and fulfil the rights of and empower the ‘right holders’, which are the people to demand and claim these rights as well as take responsibility for maintaining their services (Right to Water, 2003). In order to be effective, the rights must be adopted into and upheld in national laws and policies. Although challenging to implement, (of all the countries in Africa, only South Africa, Kenya, Niger, Tunisia and Zambia have incorporated the rights to water and sanitation into their constitution), the combination of new leadership and increased public pressure in Burkina Faso gave WaterAid the opportunity to push for the necessary changes to the constitution, supporting legal frameworks and institutional reforms to improve access to water and sanitation services.

Capitalising on the increased civil society engagement of the uprising, WABF undertook a series of activities to strengthen the capacity of civil society organisations (CSO) and community groups including those representing the poorest and most marginalised to increase their ability to advocate for the enshrining of the rights to water and sanitation, as well as other rights, into laws and policies. WABF also provided support in the development of financing strategies and frameworks, engaging with existing social movements and local and central government authorities. We also helped to strengthen service delivery with HRBA principles to draw evidence for policy influencing and systemic change.

Applying the principles of accountability, participation and access to information, at the local level, citizens and civil society groups engaged with the local government on expenditure for water using accountability platforms to track commitments, participated in local level planning and ensured that services were maintained through repairs and community management mechanisms. At the national level, there were campaigns and meetings held with key officials of the national transitional council and position papers and proposals were developed on how to realise water and sanitation as human rights.

Following this capacity building, partners felt empowered and better able to engage with local authorities about securing their rights and demanding accountability through meetings and monitoring the quality of services and facilities. At the national level, the CSO network, with support from WABF, held a forum with policy makers and other stakeholders on the rights to water and sanitation as constitutional rights. There were also engagements with the parliament to improve its understanding of the rights to water and sanitation.

The fragile political situation in Burkina Faso brought significant challenges to WASH governance at the local and national level but also presented an opportunity for engagement. The challenges included the inability of the local authorities to acknowledge and understand the human rights principles – they claimed that being unelected, they had no mandate to deliver services and had been appointed by the state to solely administer the local government. This challenge was overcome by building upon the existing demands of citizens for political change, and working closely with CSOs, whose understanding of the HRBA and capacity in its delivery had been strengthened by WaterAid’s sharing of knowledge and experience of working on rights (Gosling, 2014). The Capability, Accountability and Responsiveness (CAR) framework (Moore and Teskey, 2006), which WaterAid had used as its underlying theory in

promoting responsible governance in the WASH sector through a previous 5 year project promoting governance and transparency (Diouf, P., 2013) also proved invaluable in influencing change.

Main results and lessons learnt

In Burkina Faso, the major achievements of this approach can be captured as follows: a) recognition of the rights to water and sanitation in the constitution; b) increased knowledge and empowerment of communities at local level; (c) Empowerment of duty bearers - local, administrative and political authorities.

a) Recognition of the Human Rights to Water and Sanitation in the constitution

While WaterAid’s pilot project had laid the groundwork for the adoption of the human rights to water and sanitation into the constitution, the political uprising triggered an acceleration in the process. The need to revise the constitution provided WaterAid and other sector players the opportunity to push for its integration much earlier than anticipated; the Human Rights to Water and Sanitation have now been in effect since November 2015. Indeed, Article 18 of the constitution reads that “education, **safe water and sanitation**, training, social security, housing, energy, sport, leisure, health, mother and child protection, assistance to the elderly, to people with a handicap, artistic and scientific creation are social and cultural rights recognized by the constitution and will be promoted”.

b) Increased knowledge and empowerment of communities at local level

This achievement was observed in Dissin local government where the pilot project delivered a number of activities including: awareness-raising, capacity-building and dialogue with local authorities. Communities now understand that they have rights and can bring duty bearers to account and ensure that these rights are fulfilled. The community dialogues are now integrated as part of community activities with continued support from WABF’s local partner and the community leaders.

The ability of a local women’s group to access land is another example of how the HRBA can empower communities to demand their rights and contribute towards ‘poverty reduction’ and positive social change. WABF worked with the women’s group to build their awareness of the right to water and sanitation which led them to develop initiatives targeting local authorities to address other issues important to them. Indeed, their lobbying, advocacy and engagement efforts have proven fruitful through the recognition of their rights especially their access to land.

WABF experience has shown that people who can claim their rights and who are actively engaged in decision making are those able to take independent initiatives and assume responsibility. This is where the empowerment of women and people living with disabilities remains critical because they are the ones who suffer most from lack of access to safe water, with the former group often bearing the burden of collecting water for their households. Our experience here reveals that empowerment is a long-term and iterative process due to the deep cultural structures which perpetuate inequalities and disempower women and girls. For instance, women are treated as second-class citizens and are often unable to speak out for themselves or participate actively in decision-making processes.

c) Empowerment of the duty bearers – local, administrative and political authorities

Duty bearers have been made aware of and acknowledge the approach and the importance of respecting and implementing human rights. The duty bearers were identified through a participatory process using the power relation tool and carried out by social groups including women, children, and people with disabilities. This process improved the understanding of why as the state and service provider they need to support the proposed constitutional reform of including the rights to water and sanitation. Empowered duty bearers also became allies in the constitutional debate and convinced other colleagues in government for the need to include water and sanitation as rights.

Conclusions and Recommendations

- **HRBA should be applied from the inception stage of programmes:** It is important to include HRBA analysis and tools from the planning stage and not as an after-thought in projects or programmes. It strengthens the analysis and contributes to local ownership and sustainability of the programmes and their wider results. This is based on the fact that this learning initiative was introduced into an ongoing intervention rather than from the inception of engagement with the

community. Although ultimately successful, the shift from a ‘needs-based’ approach to a HRBA did prove challenging.

- **Application of HRBA is context specific:** While the principles of human rights are universal the application of the HRBA differs according to the particular blockages it is trying to address. Its results may not be fully anticipated as there are usually emerging issues in the process. Related to this is the fact that while some stakeholders have included HRBA in their strategies, they do not have a clear understanding of how this works and which tools are suitable for the context (O’Meally, 2013). It is important to consider the culture, policy environment and the prevailing politics of the time to ensure the application of the HRBA is appropriate – the latter being particularly central in this example.
- **People are the most important factor:** While the current interest in HRBA is ascribed to the fact that financial and technical partners now make it a requirement before providing funding and support, it is important to focus on the people involved in achieving expected results rather than the funding opportunities that the HRBA presents. People (both ‘rights holders’ and ‘duty bearers’) were central to pushing for the inclusion of WASH rights in the constitution, building from the ground where the community members were able to demand for accountability from the local authorities even though they were unelected and were operating under what can be termed an emergency situation where the constitution and rule of law was basically suspended.
- **Tools and approaches must be appropriate:** The fact that a tool is effective in one context does not necessarily mean it is appropriate for another, such was the experience in Burkina Faso. For instance, the political uprising meant that a process mapping tool was not appropriate for the context. There is also the need to ensure that there are clear policies and strategies for targeting the poorest and excluded. These institutional frameworks are the basis for engagement and strengthens the ability of right holders to hold duty bearers to account. This should be supported by clear indicators for measuring success as part of monitoring and reviews. One key example of this is the government strategy for targeting the poor by the Ministry of Social Welfare in Burkina Faso which did not have measurable indicators.
- **Community empowerment as a sustainability enabler:** The social change expected under the HRBA requires that communities are empowered. Indeed, the assumption is that the more they are empowered, the better they can link the work carried out to the impact on their lives, helping to foster the sustainability of interventions. Participation is also a key factor for influencing change, influencing the adoption of the Human Rights to water and sanitation in the constitution and ensuring that benefits are equitably shared among communities. As communities were able to demand accountability and claim their rights to WASH services increased pressure was placed on the government as duty bearer to maintain services in collaboration with WASH committees. The improved collection of community contributions, as part of their responsibility to maintain services, further bolsters the sustainability of WASH services.
- **A multi-stakeholder approach is needed to implement HRBA:** As stated earlier, HRBA involves several key stakeholders including but not limited to, NGOs and associations; Local Governments; Human Rights Commission; the media (in particular community radio); the Ministry of Sanitation, of Justice and Human Rights; parliament; and financial and technical partners such as donors and organisations with expertise. The experience on the ground had different stakeholders at each level or point in time playing a role. For instance, at the local level, the community groups and the local CSOs were pivotal in establishing the accountability platform whose use served as evidence of national level engagement and contributed to improved services at the local level. The civil society network at the national level, the parliament and others also played strategic roles in strengthening the platform.
- **Building interest at the strategic and political level can be strengthened by use of evidence from the ground:** The engagement with parliamentarians, ministries and agencies at the national level was strengthened with community and local partner representatives providing personal testimonies with documented evidence provided by WABF in building pressure and drawing attention to the impact of unsafe water and improved sanitation through a Human Rights lens.

Following this achievement, and increased interest from donors, including DANIDA and the UN

Democracy Fund, there are now plans to scale-up the approach. There is now a parliamentary network on WASH which is supporting the financing of WASH as a way of fulfilling the right to water and sanitation, and ensuring that policies and institutional reforms are supportive of the rights to water and sanitation. The President has subsequently established the Ministry of Water and Sanitation, a decision taken, in part, following WaterAid’s intervention, policy brief, and advocacy meeting. The Ministry of Justice and the Human Rights Commission in Burkina Faso are now working with WABF to fulfil and protect this constitutional right. WaterAid will continue to facilitate and capitalise on civil society engagement and support government capacity to engage citizens in fulfilling this right among other rights.

References

- Diouf, P. (2013). ‘Governance and Transparency Fund Programme Project Completion Report’. For more details see [file:///wafs/users/HannahC/AppSense%20Settings/Downloads/Governance%20and%20Transparency%20Fund%20programme%20poject%20completion%20report%20\(1\).pdf](file:///wafs/users/HannahC/AppSense%20Settings/Downloads/Governance%20and%20Transparency%20Fund%20programme%20poject%20completion%20report%20(1).pdf)
- Gosling, L. (2014). ‘Moving along the right track? The experience of developing a rights-based approach at WaterAid’. *Waterlines*, 4(3), 357-374. For more details see <http://www.developmentbookshelf.com/doi/abs/10.3362/1756-3488.2014.035>
- Moore, M. and Teskey, G. (2006). ‘The CAR Framework: Capability, Accountability, Responsiveness. What Do These Terms Mean, Individually and Collectively? A Discussion Note for DFID Governance and Conflict Advisers’. For more details see <http://www2.ids.ac.uk/gdr/cfs/pdfs/CARframeworkDRCweb.pdf>
- OHCHR. (2002). ‘Principles And Guidelines For A Human Rights Approach To Poverty Reduction Strategies’. For more details see <http://www.ohchr.org/Documents/Publications/PovertyStrategiesen.pdf>
- O’Meally, S. C. (2013). ‘The World Bank - Mapping Context for Social Accountability: A Resource Paper’. For more details see http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1193949504055/Context_and_SAcc_RESOURCE_PAPER.pdf
- Right to Water. (2003) ‘Content of the Rights and Principles’. For more details see <http://www.righttowater.info/why-the-right-to-water-and-sanitation/the-right-to-water-a-legal-obligation/the-content-of-the-rights-explained/>
- Right to Water. (2003). ‘Realising the human rights to water and sanitation: A handbook’. For more details see <http://www.righttowater.info/why-the-right-to-water-and-sanitation/the-right-to-water-a-legal-obligation/the-content-of-the-rights-explained/>
- Unicef and WHO. (2011). ‘Drinking Water Equity, Safety and Sustainability’, JMP Thematic Report on Drinking Water. For more details see http://www.wssinfo.org/fileadmin/user_upload/resources/report_wash_low.pdf
- World Bank Social Accountability Sourcebook. (2004). ‘Tools and Methods’. For more details see http://www.worldbank.org/socialaccountability_sourcebook/Tools/toolsindex.html

Contact Details

Name of Lead Author: Apollos Nwafor
Email: apollosnwafor@wateraid.org

Name of Second Author: Landry Ouangre
Email: landryouangre@wateraid.org