



THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

AAAQ AND THE RIGHT TO WATER

CONTEXTUALISING
INDICATORS FOR
AVAILABILITY, ACCESSIBILITY,
ACCEPTABILITY AND QUALITY

A MANUAL OF THE AAAQ TOOLBOX

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CONTENT

1	INTRODUCTION	5
1.1	Why?	6
1.2	What?	7
1.3	Who?	9
1.4	How?	11
1.5	Structure of the manual	13
2	MODULE I: AAAQ FRAMEWORK	16
2.1	Component 1: The Human Rights Framework	20
2.1.1	Rights holders and duty bearers	20
2.1.2	Human rights based approach	21
2.1.3	The right to water	23
2.1.4	Human rights instruments, mechanisms and institutions	24
2.2	Component 2: Human Rights standards for water	26
2.3	Component 3: Indicators and benchmarks for the right to water	28
2.3.1	Hierarchy of authority in source	28
2.3.2	Indicators and benchmarks	29
3	MODULE II: CONTEXTUALISED AAAQ INDICATORS AND TARGETS	32
3.1	Component 4: Stakeholder analysis	36
3.2	Component 5: Structural indicators	40
3.3	Component 6: Outcome indicators	43
3.4	Component 7: process indicators	47
4	MODULE III: ACTION PLANNING	50
4.1	NHRI action planning	51
4.2	State action planning	52
4.3	Private sector provider action planning	54
4.4	Civil society action planning	56
5	REFERENCES	57

ABBREVIATIONS

AAAQ	Availability, Accessibility, Acceptability and Quality
ACHPR	African Charter on Human and People's Rights
CESCR	Committee on Economic, Social and Cultural Rights
DIHR	Danish Institute for Human Rights
ESCR	Economic, Social and Cultural Rights
HRBA	Human Rights Based Approach
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
MDG	Millennium Development Goal
NGO	Non-governmental organisation
NHRI	National Human Rights Institutions
OHCHR	Office of the High Commissioner for Human Rights
SDG	Sustainable Development Goals
UDHR	Universal Declaration of Human Rights
UNGP	United Nations Guiding Principles on Business and Human Rights
UPR	Universal Periodic Review

CHAPTER 1

1 INTRODUCTION

” Having access to safe drinking water and sanitation is central to living a life in dignity and upholding human rights. Yet billions of people still do not enjoy these fundamental rights.

(Special Rapporteur on the human right to safe drinking water and sanitation)

This manual is part of the AAAQ Toolbox, developed by DIHR as a collection of tools and methodologies for application of the Availability, Accessibility, Acceptability and Quality (AAAQ) criteria in national, local and project level contexts. The Toolbox is designed to assist in the design of initiatives for realisation of Economic, Social and Cultural Rights (ESCR) by National Human Rights Institutions (NHRI), states, private sector providers and civil society.

The purpose of this manual is to guide stakeholders through a process of identifying national indicators and targets in order to establish a common understanding and interpretation of the right to water in a specific country context. The identification of national indicators and targets takes its point of departure in the international human rights standards and indicators as set out in international hard and soft law (the DIHR AAAQ Framework for the right to water)¹.

The AAAQ indicators and targets cannot be seen in isolation from the political, economic and social conditions in the country and stakeholder roles, responsibilities and relationships. From a human rights perspective, an analysis of the context and stakeholders takes its point of departure in the duty bearer responsibilities and the entitlements of the rights holders as well as the HRBA principles of equality and non-discrimination, participation and accountability. This analysis gives an overview of the conditions and actors that influence the right to water in a national context.

National indicators and targets should be defined and adopted by the state through relevant legal, policy, regulatory and administrative decisions. However, the indicators and targets should ideally be identified and agreed upon through a multi-stakeholder process, including public consultations to include the rights

holders' perspectives throughout the process. The AAAQ indicators can be applied to all levels, e.g. national, regional, local or project level.

While this manual focuses on the right to water, the tools and methodologies presented are generic in nature and can therefore also be applied to other ESCR such as, the right to sanitation, health, housing, food and education.

1.1 WHY?

The right to water is a right in itself and closely interlinked with other ESCR set out in the International Covenant on Economic, Social and Cultural Rights (ICESCR). On 30th September 2010, the UN Human Rights Council, responsible for mainstreaming human rights within the UN system, adopted a resolution affirming that water is a human right². In addition, the right to water is directly or indirectly addressed in other international human rights treaties. Over the last two decades, the emergence of the human rights based approach (HRBA) has contributed to establishing a closer link between development and human rights by placing human rights firmly as a goal as well as a process for development. Global development initiatives such as the Millennium Development Goals (MDGs) and Sustainable Development Goals (SDGs) also contribute to establishing the right to water as a precondition for human development as well as an objective for development efforts.

In spite of the numerous international actions to confirm and consolidate the right to water, there is still a gap between the high level policy commitments and the realities on the ground in different countries. In country contexts, national legislation, policies, strategies and action plans often address the right to water although these do not necessarily reflect international human rights standards. In many developing countries, major donors and development partners have national strategies for water and sanitation in line with the state's development priorities.

While international human rights documents establish water as a human right, they are generic in nature and provide limited guidance in terms of defining national targets and benchmarks for the realisation of the right to water. Therefore different stakeholders, such as NHRIs, states, private sector providers, civil society and development partners, often have different understandings and interpretations of what the right to water is and how it can be realised. This lack of clarity and common understanding has adverse implications on the legitimacy of the assessment of structures, processes and outcomes pertaining to the right to water in a given country. Moreover, there is a risk that initiatives and

programmes relating to water at local and operational level lack coordination and consistency in terms of the respect, protection and fulfilment of the right to water.

Through practical work with ESCR, DIHR has identified a need for clarification and operationalisation of ESCR in national contexts in order to integrate human rights into development efforts to ensure sustainability, legitimacy and efficiency of these efforts.

1.2 WHAT?

Within the human rights and development fields, various practical approaches and methods for working with the right to water have been developed. In 2012, DIHR began developing a Toolbox for realisation ESCR with an initial focus on the right to water. With a point of departure in the Committee on Economic, Social and Cultural Rights' (CESCR) interpretation of the content of the ICESCR, DIHR use the AAAQ criteria to translate the general provisions of the international human rights instruments into generic indicators and benchmarks. The AAAQ criteria can also be used as a model for analysing national legislation, regulation and policy to identify specific indicators and targets that directly relate to the internationally acknowledged human rights. The AAAQ criteria are summarised in the figure below.

Figure 1: The AAAQ Criteria

The AAAQ Criteria

Availability: facilities, goods and services must be available in sufficient quantities and continuous supply within the country

Accessibility: services must be accessible to everyone without discrimination

Acceptability: Consumer acceptability; cultural acceptability and sensitivity to marginalised groups

Quality: services must be of good quality

Adapted from General Comments 4, 12, 13, 14 and 15 to the ICESCR

The DIHR AAAQ Toolbox is a collection of documents, tools and methodologies for understanding and application of the AAAQ criteria in different contexts. The toolbox has the following modules:

AAAQ Frameworks for each right outline the underlying methodology and rationale behind DIHRs interpretation of the AAAQ criteria and define a set of generic human rights standards and indicators derived from international hard and soft law. The purpose of the AAAQ Frameworks is to build consensus about the understanding of the content and interpretation of the international human rights standards and principles, thereby establishing a common reference for all stakeholders. In 2014, DIHR published the first AAAQ Framework in the publication “The AAAQ Framework and the right to water – International indicators for Availability, Accessibility, Acceptability and Quality of water”.

AAAQ Manuals contain guidance for the adaption and application of the AAAQ Frameworks in different contexts by NHRIs, states, private sector providers and civil society. The purpose of the AAAQ Manuals is to guide all stakeholders through a process of analysing national legal and policy obligations and translating these into country-specific human rights indicators for service delivery. The manuals provide specific information about targets for service delivery that are directly informed by human rights standards. Furthermore, the manuals also assist stakeholders in applying HRBA principles of equality and non-discrimination, participation and accountability in the planning, delivery and evaluation of services. This manual on contextualising indicators for the AAAQ criteria is the first manual produced by DIHR.

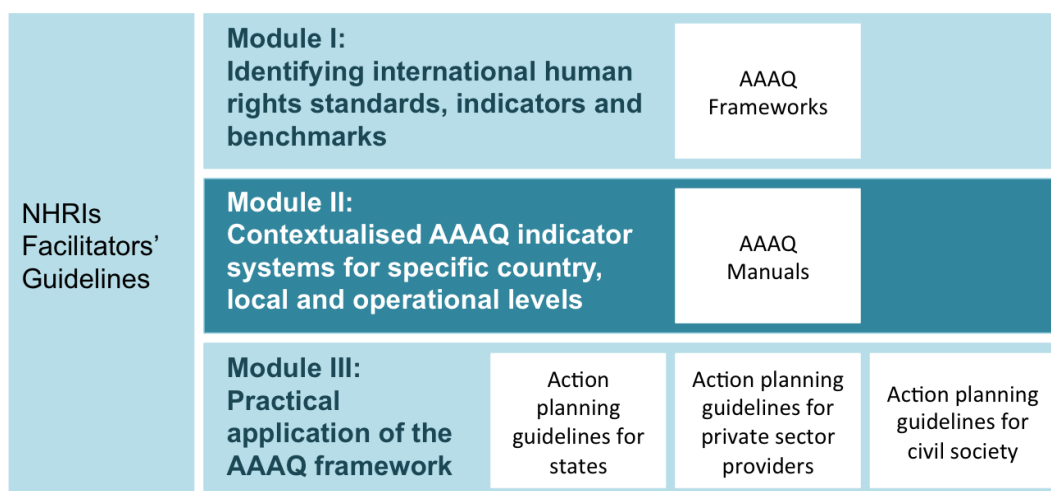
AAAQ Action Planning Guidelines for states, private sector providers and civil society with step-by-step guidelines and advice on the practical application of the DIHR AAAQ tools in different contexts. The purpose of the AAAQ Action Planning Guidelines is to provide guidance on implementation of programmes and activities that target specific stakeholders. For instance, an Action Planning Guideline for States for integration of AAAQ in public service charters, Action Planning Guideline for private sector providers’ integration of AAAQ indicators in internal performance management systems or Action Planning Guideline for civil society monitoring and advocacy for the right to water. Action Planning Guidelines will be developed by DIHR in cooperation with partners.

AAAQ NHRI Facilitator Guidelines with resource and training material for NHRIs as facilitators of in-country processes to implement the DIHR AAAQ tools. The purpose of the NHRI Facilitator Guidelines is to enable NHRIs to facilitate and give advice to AAAQ processes in different contexts. Furthermore the NHRI

Facilitator Guidelines will unfold the specific NHRI mandates such as human rights monitoring, reporting to UN human rights treaty bodies, human rights education and advice to governments.

The figure below illustrates how this manual forms part of the DIHR AAAQ Toolbox.

Figure 2: The DIHR AAAQ Toolbox



The DIHR AAAQ Toolbox is designed to support a wide range of activities addressing ESCR; ranging from assessments at national level to inform policy processes, to assessments at local and operational level to inform specific action planning by actors engaged in water management and infrastructure projects.

1.3 WHO?

This manual is targeting key stakeholders³ with active involvement or interest in the realisation of ESCR:

Rights holders are all human beings, who may experience impact on their ESCR, and more broadly equal rights and entitlements. The ultimate aim of the AAAQ Toolbox is to improve realisation of ESCR for the rights holders. While individual rights holders might not have adequate resources and skills to make direct use of the tools, the DIHR AAAQ Toolbox is designed to enable different stakeholders to improve the enjoyment of ESCR for all rights holders without discrimination. Furthermore, the DIHR AAAQ tools can be used to support public participation by enabling rights holders to understand, articulate and present their concerns as legitimate human rights claims.

Duty bearers State institutions and public authorities, including legislative, executive and judicial entities that form part of the state, can be considered the primary duty bearers from a human rights perspective. For the state, the AAAQ Toolbox can inform the setting of standards and targets for service delivery with a view to integrate human rights obligations in the planning and prioritisation of budgets, development projects and service delivery. The AAAQ tools can be used to integrate human rights into sector specific policy making as well broader policy processes such as, decentralisation, public service charters and national budgeting. Where there is no clear legal framework for solving disputes related to service delivery, the AAAQ tools can inform various complaints handling and informal justice mechanisms in the resolution of disputes.

Private sector providers are private, non-state actors providing goods and services for water management. These actors have a responsibility to respect human rights and ensure appropriate due diligence and remedies. States increasingly sub-contract businesses to provide goods and services. In such arrangements, the state effectively delegates duty to a third party, and it is crucial that appropriate responsibility structures are in place. The unanimous endorsement by the Human Rights Council in 2011 of the UN Guiding Principles on Business and Human Rights (UNGPs) marked an unprecedented international consensus on the corporate responsibility to avoid adverse human rights impact. Activities aimed at implementing these principles have accelerated since. Moreover, it is increasingly recognised that fulfilling rights entails that states undertake to obtain the private sector's support for the realisation of ESCR. Company activities may include large-scale water consumption and other factors that may have actual or potential impact on the right to water of communities in their operational context. Water stewardship addresses such impact. The DIHR AAAQ tools contribute to unpacking the responsibility of business and other private sector providers, such as non-governmental organisations (NGOs) engaged in water management, from a human rights perspective. Furthermore, the tools provide guidance on the application of HRBA principles of equality and non-discrimination, participation and accountability in the planning, implementation and evaluation of goods and service delivery, water management and stewardship.

Civil society includes organisations and associations that represent rights holders' needs and priorities. As representatives of the rights holders, civil society can monitor the state's fulfilment of ESCR by collecting and summarising data on the AAAQ indicators. National summary reports can feed into advocacy efforts and dialogue with the state and private sector providers to agree on the long and short-term targets and strategies for providing services to the population. The DIHR AAAQ tools can also be used in education, awareness

raising and information campaigns to build the capacity of rights holders to understand, analyse and articulate their human rights concerns. Through increased public awareness of the interpretation of ESCR, rights holders can more easily monitor the performance of the state and private sector providers in reference to their legitimate human rights claims. It is important to keep in mind that civil society does not always represent all groups in society. For the purposes of this manual, the term civil society is understood as representatives of rights holders. If some groups are not represented by civil society, other actors (e.g. NHRIs, states and private sector providers) should give priority to engaging directly with these groups.

National Human Rights Institutions (NHRIs) are independent administrative institutions set up and funded by the state to assist in the promotion and protection of human rights by providing human rights advice to the competent authorities, by monitoring the human rights situation, by disseminating human rights information, by ensuring the provision of human rights education and in most cases, by receiving and deciding on human rights complaints. NHRIs can play an important role in promoting dialogue and cooperation between duty bearers and other stakeholders. NHRIs will be key beneficiaries of the DIHR AAAQ Toolbox as they will often be well positioned to take the role as facilitators of in-country processes. However, many NHRIs have inadequate capacity in terms of tools and methodologies for working with ESCR, and the facilitator's guidelines will therefore be a key product of interest for NHRIs. Furthermore, NHRIs can use the DIHR AAAQ tools to improve their human rights monitoring, reporting to UN treaty bodies and regional human rights mechanisms, research, education and other activities that fall within their mandate.

1.4 HOW?

The aim of this manual for contextualisation of AAAQ indicators is to guide all stakeholders in adopting, adapting and applying the AAAQ Framework in planning, implementation and evaluation of the right to water in specific country contexts.

The intention is that the manual will be used as part of a capacity building and/or implementation process facilitated by DIHR. However, it can also be used as a stand-alone manual for organisations and institutions that implement AAAQ projects on their own.

The box below provides examples of DIHRs in-country processes. Inspiration for possible implementation initiatives is included in Module III in this manual.

Box 1: Examples of DIHR's work with the AAAQ Toolbox

Monitoring and advocacy for the right to water in Zimbabwe: In partnership with eight civil society organisations, a monitoring report on the right to water was developed in 2013-14. DIHR educated the partners in the DIHR AAAQ Framework and tools for contextualising indicators. Data was collected to monitor the status on national AAAQ indicators, targets and benchmarks, which had been defined through a national analysis of laws, policies and regulations. The final monitoring report will be completed in 2014 and feed into national and local dialogue and advocacy activities.

Multi-stakeholder cooperation on the right to water in Zambia: In February 2014, DIHR trained a group of stakeholders from civil society, commercial water companies, government representatives and universities in the DIHR AAAQ Framework and tools for contextualisation of indicators. The participants developed a catalogue of ideas for the practical application of the AAAQ tools in Zambia, and in 2014 pilot activities were initiated to (i) Develop and test models for integration of AAAQ indicators in existing budget tracking tools; (ii) Integrate AAAQ indicators and targets into public service charters between government, commercial water utility companies and rights holders; and (iii) Develop a national monitoring tool for the right to water in Zambia.

Monitoring and advocacy for the right to health in Russia: In May 2014, DIHR trained a group of civil society organisations in Russia on the DIHR AAAQ Framework and tools for contextualising indicators focusing on the right to health. During the interactive training, a set of AAAQ indicators and targets as well as a monitoring and data collection strategy were drafted. The tools will be refined through a legal and policy analysis and be used to develop a monitoring report for the right to primary health care for people living with HIV/AIDS, children with mobility limitations and families with many children.

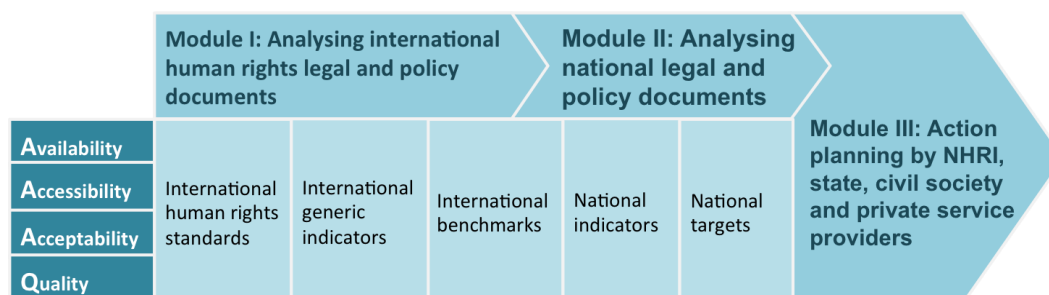
Right to water compliance in business driven water management and stewardship activities: DIHR works with global companies on designing tools and approaches for specific technical integration into ongoing and prospect water management and stewardship activities in a range of sectors including food and beverage, forestry and the extractive sector.

1.5 STRUCTURE OF THE MANUAL

This manual focuses on Module II (Contextualising AAAQ indicators for specific country, local and operational levels) in the DIHR AAAQ Toolbox. In order for the reader to understand the AAAQ Framework, the manual is introduced with a summary of Module I (AAAQ Framework for the right to water). Additionally, an inspirational overview of Module III (Action Planning) is presented.

The structure of this manual follows the three Modules in the DIHR AAAQ Toolbox, which are further divided into components with guidance on the practical application of the tools. As noted above, the DIHR AAAQ Toolbox is designed to support a wide range of activities at national level as well as at local and operational level. This manual focuses on national level assessment to illustrate various aspects of the implementation of the methodology, but the AAAQ methodology can also be replicated at local and operational level to provide specific and technical guidance for water management and stewardship projects and activities. Throughout the manual, examples from Zambia are used to illustrate how the generic AAAQ Framework can be adapted and applied in a specific country. This manual can be read in its entirety as a step-by-step guideline, or the reader can select specific components of key interest.

Figure 3: The logic of the AAAQ Methodology and Modules in the DIHR AAAQ Toolbox



Module I: AAAQ Framework – human rights standards, indicators and benchmarks

The generic AAAQ standards, indicators and benchmarks are derived from international human rights hard and soft law and are further guided by documents produced by internationally acknowledged organisations and institutions. These criteria have been identified by DIHR through a review of human rights and development literature.

The purposes of Module I are to:

- Familiarise with the global standards, indicators and benchmarks for AAAQ
- Build the necessary knowledge to adapt and apply the AAAQ Framework to a national context

Module II: AAAQ Manual – Contextualised AAAQ indicators for specific country, local and operational levels

Module II is the focus of this manual. All countries have different legislation, policies and institutional set-ups, and the infrastructure and resources for water management are dependent on the national political, economic and social context. For the AAAQ tools to support processes and activities on the ground and be meaningful and reflect the local conditions, the AAAQ Framework needs to be adapted to the context. Module II analyses the national actors, legislation and policies, and provides guidance for developing a country-specific AAAQ indicator system.

The purposes of Module II are to:

- Analyse the national context with a view to understand the multiple facets of the right to water
- Adapt the AAAQ Framework to a country context
- Develop AAAQ indicators and targets in a country context

Module III: Action planning - Practical application of the AAAQ Framework

Identification of AAAQ indicators is not an end in itself. The indicator system is rather a tool that can be used by NHRIs to promote and protect ESCR; for governments and private sector providers to improve planning, implementation and monitoring of programmes to improve water delivery and services; or by civil society to monitor the performance of the state and private sector providers and advocate for changes in legislation, policies and development programmes. This manual includes an inspirational overview of possible action planning tools, which DIHR will be developing and testing together with our partners.

The purposes of Module III are to:

- Further outline the roles of NHRIs, states, private sector providers and civil society with regard to the right to water
- Provide guidance for the practical application of AAAQ tools and methodologies by these actor groups in their work

The table below summarises the content of the three modules in the DIHR AAAQ Toolbox.

Table 1: Overview of modules in the DIHR AAAQ Toolbox

Module I: AAAQ Framework
Component 1: The Human Rights Framework
Component 2: Human rights standards for water
Component 3: Indicators and benchmarks for the right to water
Module II: Contextualised AAAQ indicators and targets
Component 4: Stakeholder analysis
Component 5: Structural indicators
Component 6: Outcome indicators
Component 7: Process indicators
Module III: Action planning
NHRI action planning
State action planning
Private sector provider action planning
Civil society action planning

CHAPTER 2

2 MODULE 1: AAAQ FRAMEWORK

” Water is a limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights.

(General Comment 15 to the ICESCR)

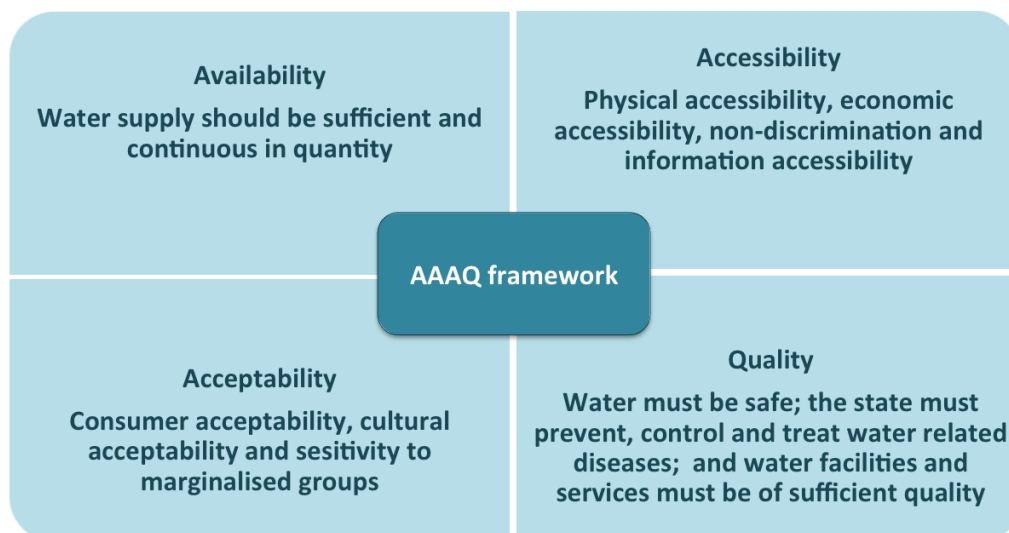
Water is necessary for people to realise the right to an adequate standard of living. Everyone needs drinking water to survive; polluted water can lead to diseases and long distances to water sources can influence children’s school attendance. But how do we measure if water is adequate? Module I unpacks the content of the right to water. This is done by outlining human rights standards, indicators and benchmarks of the right to water based on global consensus by key human rights and development actors.

Over time, the CESCR has specified key elements of each of the rights set out in the ICESCR, namely **A**vailability, **A**ccessibility, **A**ceptability and **Q**uality. These are specified in the General Comments to the ICESCR.

DIHRs publication, “The AAAQ Framework and the right to water”, provides an in-depth description of the background and methodology behind DIHRs interpretation of the AAAQ criteria for the right to water.

The AAAQ criteria are summarised in the figure on the following page.

Figure 4: AAAQ for the right to water



Availability identifies whether there is a sufficient amount of water available within a given geographical area (e.g. a country, a district or a village) and whether there is a regular supply of water over time. Thereby the availability criterion takes into account seasonal changes in water supply according to weather patterns as well as the regularity of supply on a daily basis. Availability is viewed from a supply perspective in terms of ensuring that enough water is available at any given time in a specific location. It is an objective criterion, which can be measured through quantitative data (e.g. amounts of water and duration of water cuts) and it represents a relatively low level of complexity.

Accessibility concerns the level of access and identifies who has access. There might be an abundance of water within a country or a district, but there are a variety of factors that influence rights holders' ability to access water. The accessibility criterion encompasses the HRBA principles of equality and non-discrimination, participation and accountability.

Accessibility is divided into four sub-criteria to help identify the barriers for accessing water.

- 1) Physical accessibility** means that water must be within physical reach and that it can be accessed without physical threats.
- 2) Economic accessibility** (affordability) refers to the cost of accessing water and attention is given to whether the cost of water threatens the realisation of other rights; e.g. if a family is forced to prioritise between water for the family and school fees for the children.

- 3) **Non-discrimination** is a specific element of accessibility as well as an overarching human rights principle for all AAAQ criteria. In its simplest form, the non-discrimination criterion can be addressed through disaggregating data on the other AAAQ indicators based on prohibited grounds of discrimination⁴. Disaggregation of data can uncover inequalities in distribution of water to different groups in society. An in-depth qualitative analysis of marginalised groups and equal access to water requires a range of measurements based on the types of discriminatory practises (e.g. refusing migrant workers access to a borehole) for each of the marginalised and vulnerable groups in the country or local community (e.g. women, people living with HIV/AIDS or disabilities or elderly persons).
- 4) **Information accessibility** concerns the accessibility of information on water related issues and should consider e.g. the frequency, medium, form and language of the information. From a broader perspective, information accessibility also relates to the openness and responsiveness of public institutions to the requests and needs for information about water related institutions and processes. This includes information about how and when rights holders can participate in policy and decision making processes as well as procedures for providing feedback and lodging complaints.

In summary, the accessibility criterion is highly complex and a comprehensive analysis of accessibility should ideally include a high level of participation of rights holders to identify relevant indicators for each of the sub-categories as well as a combination of qualitative and quantitative data.

Acceptability concerns subjective assessments of the rights holders' perceptions about water and the delivery of water. A distinction is made between consumer and cultural acceptability. *Consumer acceptability* concerns the characteristics of the water in question (e.g. odour, taste and colour of water) as well as procedural considerations (e.g. the behaviour of water suppliers). *Cultural acceptability* refers to perceptions based on the culture of individuals, minority groups and communities. For instance, some groups might find it inappropriate to drink water from a tap rather than from a river, while others might refuse to drink water that has been chemically treated or from a borehole close to a graveyard. The high degree of subjectivity makes it very difficult to identify relevant generic indicators at international and national level. A comprehensive assessment of the acceptability criterion should ideally be carried out through a dialogue-based qualitative analysis at local level. Attention should be given to identification and engagement with marginalised and minority groups in local communities. For present purposes, the criterion also covers acceptability issues relating to such factors as gender, age, marital status, place of origin and sexual orientation.

Quality concerns the quality of water in objective, scientific terms and is closely tied to international and national quality standards. Assessing the quality of water is highly complex and requires technical expertise on micro-organisms and chemicals that might pose a health risk. WHO and UNICEF are leaders in the field of water quality and have defined a set of core parameters for water quality (microbial quality, physical parameters and chemical parameters). When measuring water quality, efforts should be made to either make use of quality assessments from WHO and UNICEF or engage technical expertise on water quality.

Module I starts with an introduction to the Human Rights Framework (Component 1). For each of the four AAAQ criteria, it is possible to identify human rights standards (what we want to achieve) as defined in the human rights instruments (Component 2). Human rights standards are not directly measurable, and therefore the next step is to identify generic indicators (what we want to measure) as well as international benchmarks (recommended levels) for fulfilment of the indicator for the right to water (Component 3).

2.1 COMPONENT 1: THE HUMAN RIGHTS FRAMEWORK

” The peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.

(Universal Declaration of Human Rights, Preamble)

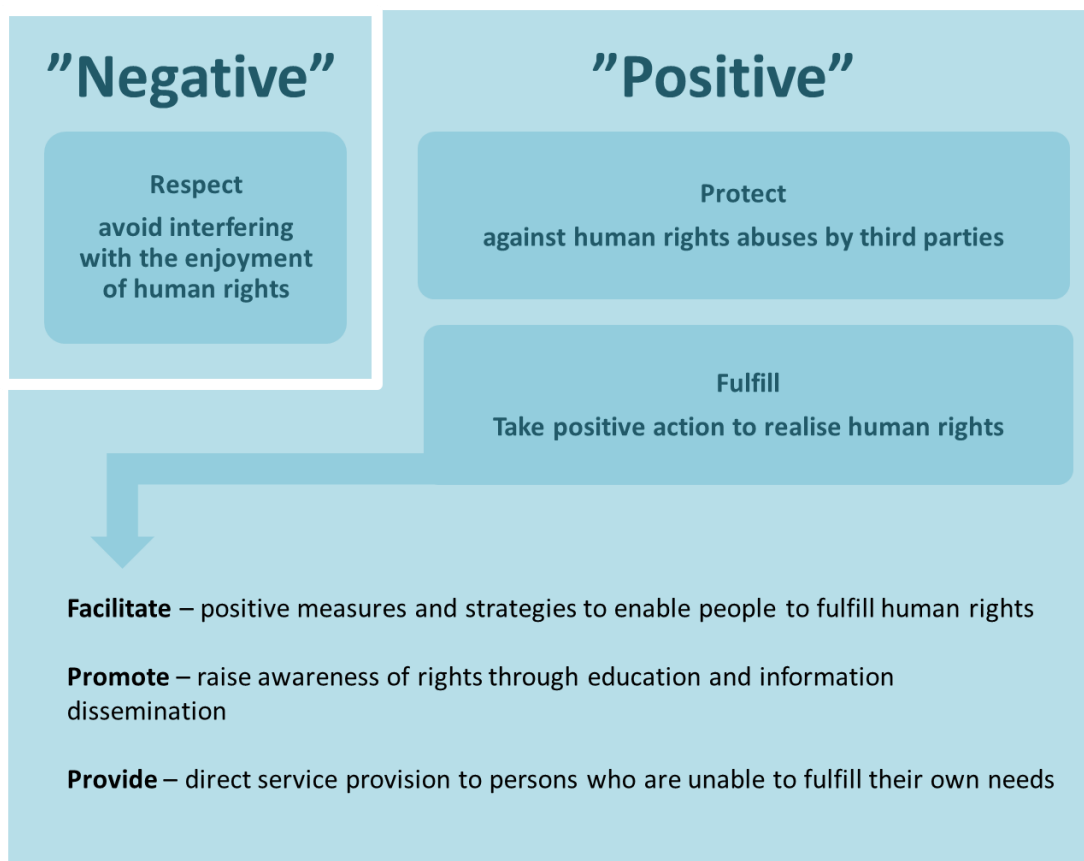
This component introduces the HRBA as well as international human rights instruments and mechanisms.

2.1.1 RIGHTS HOLDERS AND DUTY BEARERS

All human beings are *rights holders* and human rights are universal, meaning they apply equally to all human beings without discrimination of any kind. Human rights are inherent to all human beings and all economic, social, cultural, civil, political and other rights are indivisible and interdependent. Human rights are expressed in international treaties, customary international law as well as national constitutions, laws and policies.

According to international human rights law, the state is the *duty bearer* and has three overall *obligations*: the *negative* duty to *respect* and the *positive* duties to *protect* and *fulfil* human rights. In comparison, other actors (e.g. private businesses and civil society organisations) only have a direct responsibility to respect human rights (though national law may impose other duties and responsibilities). The negative duty to *respect* means that it is impermissible for anyone to violate or be complicit in violations of individuals' human rights. The state has a duty to *protect* individuals and groups from human rights abuses by third parties through legal, administrative and other means. The duty to *fulfil* means that states must take positive measures to ensure all individuals enjoy basic human rights through laws, policies, development programmes information and service delivery for those who are unable to enjoy their rights without assistance.

Figure 5: Duty bearer responsibility



2.1.2 HUMAN RIGHTS BASED APPROACH

The emergence of the *Human Rights Based Approach* (HRBA) has changed the way development issues are articulated and strengthened the position of ESCR within the global human rights agenda. The HRBA underlines that all rights set out in ICESCR and the International Covenant on Civil and Political Rights (ICCPR) are indivisible (all rights have equal status and are equally important) and interdependent (each right is partly or fully dependent on realisation of other rights). For example, the right to participate in public affairs might be hindered for women if they have to spend a long time every day collecting water and are therefore unable to participate in relevant community meetings and activities. On the other hand, the lack of participation of women in decision making about water delivery can be an obstacle to having a water source constructed in closer proximity. Thus both the right to accessible water and the right to public participation are equally important for achieving a life of dignity.

The HRBA is an approach that enables development practitioners and other actors to firmly place human rights as a goal for development, to explicitly link development efforts to human rights standards and to enable key human rights principles to systematically guide the process of development. The HRBA draws on the human rights system and clarifies the rights, obligations, roles and capacities of rights holders and duty bearers. The approach takes its point of departure in human rights instruments and mechanisms as legally binding and/or legitimately guiding the work of NHRIs, states, private sector providers and civil society.

Through the HRBA, human rights become an integral part of human development because development goals are related to relevant human rights standards and human rights principles are applied to all stages of the planning and implementation of projects and programmes. The following human rights principles are at the core of HRBA:

Equality and non-discrimination: all individuals are equal as human beings and all human beings are entitled to their human rights without discrimination of any kind. Priority must be given to those who are more likely to suffer discrimination and those who are more negatively affected by economic, social and political inequality. These groups include not just poor or marginalised people, but also the most vulnerable groups – e.g. women, the elderly, minorities, members of low castes, etc. Gender considerations are fundamental aspects of inequality and have to be taken into consideration at all times and at all levels. Assessment of whether discrimination is prevalent requires that monitoring data is disaggregated on prohibited grounds of discrimination.

Participation: every person has a right to active, free and meaningful participation in economic, social, cultural and political development. The HRBA seeks to strengthen people's ability to contribute to their own development and hold duty bearers accountable for their actions, policies and priorities through direct and indirect engagement with decision makers. Participation aims to ensure a more systematic inclusion of vulnerable groups by empowering them to articulate their needs, claim their rights and take charge of their own development. It is important to ensure that participation mechanisms are accessible to everyone, including the most vulnerable groups. The ability to make and implement decisions about matters that affect you is an indicator of empowerment. Participation includes the right to take part in the conduct of public affairs and the principle of participation also requires attention to the rights to access to information; freedom of expression, association and assembly; and transparent and accessible governance. Effective participation often depends on a principle of subsidiarity, meaning that decisions are taken as close

as possible to those most affected by them. In country contexts, this includes consideration of localised decision making forums, including local government, village and customary structures that are often responsible for deciding on questions related to water resources.

Accountability: lies at the heart of the human rights framework as an overarching principle derived from many different rights. Rights imply duties, and duties demand accountability. Accountability is anchored in international legal standards as well as in domestic constitutional and legislative frameworks, and sometimes in localised and/or customary frameworks. Application of the principle of accountability includes establishment and implementation of a legal framework for assessing compliance with human rights obligations, addressing violations and providing remedies. Accountability mechanisms should be made accessible to everyone, including the most vulnerable groups. The principle of accountability underpins the relationship between rights holders and duty bearers. Effective implementation of a HRBA will require the identification of specific obstacles that duty bearers face in meeting their obligations and in being accountable in practice, as well as developing or strengthening the remedy mechanisms that are most likely to be accessible and effective in the particular context. Accountability is also closely linked to the right to access information and the capacities needed for rights holders to claim their rights effectively. Accountability and empowerment are therefore also closely linked.

2.1.3 THE RIGHT TO WATER

The right to water is part of the broader international human rights framework. At the top of the international human rights hierarchy is the International Bill of Human Rights, which consists of the Universal Declaration of Human Rights (UDHR), the ICCPR and the ICESCR. The International Bill of Human Rights, together with seven other treaties⁵, forms the core international instruments of the UN. These texts set out the human rights principles and standards, which are legally binding to ratifying states. *Optional protocols* to the documents establish mechanisms for handling of complaints about violations.

States that are signatories to the ICESCR have an overall obligation to realise the right of everyone to *an adequate standard of living* (Article 11) as well as specific obligations to ensure the rights of everyone to water and sanitation, health, education, housing and food. The specific definition of an adequate standard of living is contextual and dependent on the state's resources and infrastructure to deliver services to the population. Acknowledging that states might have insufficient resources to fully realise all the rights in the ICESCR, a set of *core*

obligations have been defined for each of the rights in the Covenant. States are obliged to implement these core obligations immediately.

However, it is not enough for states to comply with the core obligations, and therefore an approach of *progressive realisation* of all the rights set out in the ICESCR should be applied – only over time can these rights gradually be fully realised. In order to achieve this, the state must utilise the *maximum available resources*, which include the state's own resources as well as *assistance* from partners from other countries. If a state is unable to demonstrate that it has taken the necessary steps towards realisation of the right it is considered a violation of the

STATE RESPONSIBILITY:

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

ICESCR, Article 2

ICESCR. States' human rights responsibility to realise the right to water include obligations of conduct and obligations of results. The *obligations of conduct* oblige states to take action such as development and implementation of national strategies and action plans for water delivery and services. *Obligations of result* require that states achieve specific targets that relate directly to the human rights standards, e.g. achieving availability of an adequate amount of water per person per day. States can be held accountable for acts of commission as well as acts of omission. *Acts of commission* refer to specific actions of the state such as adopting policies that lower the targets for water delivery or denying specific groups in society access to water. However, it is not sufficient to avoid violations of human rights. States can also violate the ICESCR through *acts of omission*, e.g. failure to enact and enforce legislation for implementing the provisions of the ICESCR.

2.1.4 HUMAN RIGHTS INSTRUMENTS, MECHANISMS AND INSTITUTIONS

Within the UN and regional human rights systems, different instruments, mechanisms and institutions have been put in place to support and monitor states' compliance with human rights.

Each of the UN treaties establishes a *Treaty Body* (Committee of Experts) to monitor states' implementation and elaborate on the interpretation of the treaties. The Treaty Body of the ICESCR is the *Committee on Economic, Social and Cultural Rights* (CESCR), which monitors implementation of the covenant. The Committee reviews all state parties at regular intervals based on national reports on ESCR. During this process, civil society and NHRIs can submit shadow reports, which will be taken into account when the Committee makes recommendations to the state.

Treaty bodies also publish their own interpretations of content in their respective treaties in the form of *General Comments*. In November 2002, the CESCR issued *General Comment 15 on the Right to Water*, which establishes the foundation of the AAAQ Framework by setting out obligations for the Availability, Accessibility, Acceptability and Quality of water. Since February 2013, the CESCR has been mandated to take individual complaints on violations of the ICESCR in the countries that have ratified the *Optional Protocol to the ICESCR*. However, only 10 countries have signed the Optional Protocol, so the scope of the complaints handling mechanism is still very limited.

The Human Rights Council has established a number of *Special Procedures* (e.g. Special Rapporteurs), which are mandated to report and advise on specific human rights themes or specific countries. Of particular importance for ESCR are the Special Rapporteurs on Water and Sanitation, Adequate Housing, Education, Health, Food and Extreme Poverty. The Special Procedures can carry out country visits and give recommendations to states in response to reports submitted by civil society or other human rights actors.

The *Special Rapporteur on the human right to safe drinking water and sanitation* was established in 2008 with a mandate to examine non-discrimination, participation, empowerment, accountability and transparency in relation to water and sanitation; and to provide recommendations to governments and stakeholders. The Special Rapporteur carries out thematic research, undertakes country missions, collects good practices, and works with development practitioners on the implementation of the right to water and sanitation. The reports of the Special Rapporteur provide practical guidance on the interpretation of the right to water and sanitation⁶.

In addition to international human rights institutions and instruments, a number of regional groupings have established regional human rights bodies and mechanisms. In the African context, the human rights system is established within the African Union. The African Charter on Human and People's Rights (ACHPR) is the major human rights instrument. The enforcement mechanisms

include the recently established African Court on Human and Peoples' Rights and the African Commission on Human and Peoples' Rights. In Europe, the arrangements for protecting human rights involve the Council of Europe, the European Union and the Organisation for Security and Cooperation in Europe. The mechanisms for protection of rights include the European Court of Human Rights and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The main human rights instruments in the Americas are the American Declaration on the Rights and Duties of Man and the American Convention on Human Rights; and the main mechanisms include the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. For purposes of simplicity, Module I of this manual focuses on the international human rights instruments and mechanisms. In the contextualisation of indicators in Module II, the relevant regional instruments and mechanisms should be considered.

2.2 COMPONENT 2: HUMAN RIGHTS STANDARDS FOR WATER



The Committee [on Economic, Social and Cultural Rights] is of the view that a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party

(General Comment No. 3 to the ICESCR)

This Component defines the right to water and identifies the globally applicable standards for the right to water as defined in the ICESCR, which is legally binding for states that have ratified the Covenant and can therefore be considered as an authoritative source.

The human right to water is derived from the right to an adequate standard of living (Article 11) and the right to the highest attainable standard of health (Article 12). The CESCR has defined the core obligation (minimum essential levels) and defined adequacy (full realisation) of the right to water in General Comment 15 to the ICESCR. Some of these obligations relate directly to the AAAQ criteria, while other obligations relate to policy making and the HRBA principles of equality and non-discrimination, participation and accountability. The table below summarises the core obligations and criteria for adequacy viewed through the AAAQ lens⁷.

Table 2: Example - human rights standards for the right to water

WATER: Human rights standards (Derived from General Comment 15 to ICESCR)		
Criteria	Core obligation	Adequacy
Availability	Minimum essential level to prevent disease Regularity of available water	Water supply sufficient and continuous for personal and domestic use Quantity should correspond to WHO-guidelines
Accessibility	<u>Physical accessibility</u> Reasonable distance Reasonable number of outlets/waiting time Security Equitable distribution of water facilities	Within safe physical reach for all Access in or in immediate vicinity of each household, educational institution and workplace Physical security should not be threatened during access
	<u>Economic accessibility</u> Low cost programs targeting vulnerable & marginalised groups	Water, and water facilities and services must be affordable for all Direct and indirect costs must not threaten realisation of other covenant rights
	<u>Non-discrimination</u> Ensure non-discrimination of especially vulnerable and marginalised groups	Accessible to all, including the most vulnerable or marginalised, in law and in fact
	<u>Information accessibility</u> Participation in formulation of water strategy	Right to seek, receive and impart information concerning water issues
Acceptability	N/A	All water facilities and services must be culturally appropriate and sensitive to gender, life-cycle and privacy requirements Water should be of an acceptable colour, odour and taste
Quality	Safe water / prevent disease Prevent, treat and control water related diseases	Water for personal and domestic uses must be safe: free from threats to personal health according to WHO guidelines Water facilities and services are of sufficient quality

2.3 COMPONENT 3: INDICATORS AND BENCHMARKS FOR THE RIGHT TO WATER

” Some water sources may be considered unsuitable by individuals or communities on the basis of personal or local preferences. The taste, odour and appearance of water must normally all be considered good for water to be acceptable for local consumption. Perceptions about water quality, based on visual examination, taste and odour, are often unreliable. Objective techniques for the assessment of water quality are therefore necessary

(WHO, UNICEF: Rapid assessment of drinking water quality, 2012)

The human rights standards for the AAAQ criteria are formulated in general terms, which makes it difficult to measure whether the actual delivery of water services within a country is compatible with the standards. The focus of this component is to define specific indicators and benchmarks, which capture the content of the standards (indicators) and recommended levels (benchmarks) for each of the indicators.

2.3.1 HIERARCHY OF AUTHORITY IN SOURCE

The generic indicators and benchmarks are derived from internationally acknowledged and accepted human rights institutions, UN Agencies, International NGOs and academia. These actors all contribute to establishing a global consensus on the content of the right to water. The growing list of documents they have produced shows an international commitment to develop an international framework for holding states accountable for realisation of the right to water. In order to organise and prioritise these documents, the AAAQ methodology operates with a hierarchy of authority.

1. International hard and soft human rights law

The ICESCR is part of the international bill of human rights and the ICESCR and General Comment 15 are considered the most authoritative sources on the right to water. Communications and documents from the Human Rights Council, the CESCR and the Special Rapporteurs carry a high degree of authority, although they are not strictly legally binding.

2. Internationally acknowledged development actors

Various UN agencies have contributed to putting the right to water on the international development agenda. The MDGs have established the right to water as a key component of development, and Goal 7C sets the specific target of halving the proportion of the population without sustainable access to safe drinking water and basic sanitation by 2015. In 2006, the United Nations Development Programme (UNDP) dedicated the Human Development Report to the global water crisis and its effects on the 1.2 billion people without access to safe water and 2.6 billion without access to sanitation. At a more practical level, WHO has developed a comprehensive guideline for drinking water quality, which is widely used by states, private sector providers and civil society in both developed and developing countries. Other international actors such as NGO's, bi- and multilateral donors and academia also contribute to unpacking the content of the right to water. For instance, the German Development Agency (GIZ) has developed the guideline: *The Human Right to Water and Sanitation - Translating Theory into Practice*; and academic researchers have published articles on monitoring of water.

2.3.2 INDICATORS AND BENCHMARKS

From a human rights perspective all indicators take their initial point of departure in the international human rights standards:



A Human rights indicator is specific information on the state or condition of an object, event, activity or outcome that can be related to human rights norms and standards; that addresses and reflects human rights principles and concerns; and that can be used to assess and monitor the promotion and implementation of human rights.

(OHCHR: Human Rights Indicators – a Guide to Measurement and Implementation, 2012)

In other words, **indicators** refer to something which can be measured in quantitative or qualitative terms. An indicator tells us something about the right to water, which helps assess the Availability, Accessibility, Acceptability and Quality of water (e.g. litres per person per day; percentage of water sources that are compliant with WHO quality standards). The indicators should be general in nature and have the potential to be applied in any country. The generic indicator identifies what we want to measure in generic terms, in the sense that it identifies what we want to measure but does not define any upper or lower limit for whether the indicator has been fulfilled (e.g. litres per person per day).

Benchmarks attach a specific value to the indicators, which are the internationally acknowledged best practices for fulfilment of the right to water. The benchmarks reflect a certain value that is commonly acknowledged amongst international human rights and development actors (e.g. 50 litres of water per person per day). Acknowledging that human rights are highly dependent on the national context, there are many cases where human rights and development actors refrain from defining generic international benchmarks.

Based on literature on the right to water by various state and non-state actors, it is possible to extract generic indicators and benchmarks, thereby making the AAAQ Framework easier to use by NHRIs states, private sector providers and civil society. Examples of generic indicators and benchmarks for the right to water are listed in the table below. In line with state obligation for progressive realisation of the ESCR, the benchmarks are divided into intermediate and recommended levels for how the state can move towards full realisation of the right. From the table it is evident that there is a limited international consensus with regards to benchmarks for the different indicators, and in these cases it is necessary to analyse the AAAQ criteria within the national context (Module II).

Table 3: Example - generic indicators for the right to water

Criteria	Human rights standard	Generic Indicator	Generic Benchmark	
Availability	Sufficient water	Quantity of water used per person per day	Intermediate: 20 litres of water used per person per day Recommended: 50 litres per person per day	
	Regularity of water	Number of disconnections Periods of unavailability of water Incidents of unavailability of water over time	--	
Accessibility	Physical accessibility	Reasonable distance / number of outlets / waiting time	Intermediate: Max 30 minutes collection time, incl. waiting time Recommended: Max 5 minutes collection time, incl. waiting time	
		Security	% of rights holders report that they have not experienced threats/assaults	No reports of threats/assaults
		Equitable distribution	Number of people per water outlet	--
	Economic accessibility	Affordability	Total (direct + indirect) costs as proportion of income and as proportion of total cost of fulfilling basic needs/right	Total household costs amount to max 5 % of total household income
	Non-discrimination	Non-discrimination	% of rights holders report having been subjected to discrimination % of individuals belonging to vulnerable groups report they have not been subjected to discrimination % of other AAAQ indicators where no discrimination is detected	--
	Access to information	Information access	% of rights holders with access to information about water related issues % of disconnections/changes in water delivery advised to the public with adequate notice	--
	Acceptability	Consumer acceptability: odour, colour, taste	% of rights holders who are satisfied with odour, colour and taste Number of complaints about odour, colour and taste	--
Cultural acceptability: gender, life-cycle, privacy		Adaptions to cultural, gender, life-cycle and privacy considerations	--	
Quality	Safe water / sufficient quality	% of water is compliant with WHO quality standards % of rights holders use improved water sources	Yes Intermediate: 89 % (MDG benchmark) Recommended: 100 % use improved water source	
	Prevent, treat, control water-related disease	Prevalence of waterborne disease	--	

CHAPTER 3

3 MODULE II: CONTEXTUALISED AAAQ INDICATORS AND TARGETS

” While human rights are universal and every individual, regardless of location, has the right to enjoy them equally, there will be instances where indicators may have to be tailored to the contextual needs of a country. In general, both globally applicable as well as context-specific indicators will be useful in human rights assessments so long as they are anchored in the universally applicable human rights standard

(OHCHR: Human Rights Indicators – a Guide to Measurement and Implementation, 2012)

As outlined in Module I, states should meet the core obligations and progressively work towards full realisation of the right to adequate water for all by utilising the maximum available resources. Module II focuses on adapting the international generic indicators and benchmarks to the conditions in a national context by developing country-specific indicators and targets. In many contexts it can also be relevant to define indicators and targets at local level, in particular if there are significant differences in, e.g. water delivery systems, economic development, geography or rainfall patterns within a country. In countries where customary law is applied, AAAQ can be operationalised at the local level, where customary institutions, such as traditional leadership, can play important roles in informal justice systems, local decision making and social power structures in the community. In cases where large-scale infrastructure or other water sector developments are taking place, it can also be relevant to develop an AAAQ indicator framework at project level.

National indicators: The generic indicators set out in Module I should be considered guidance for defining national indicators. When selecting national indicators, the main objective is to ensure the indicator captures the most relevant information in the local context. For example, regularity of water can be measured in a variety of ways and different countries might have different distribution systems and mechanisms for ensuring regularity. Some countries have a comprehensive water infrastructure and water taps in all households,

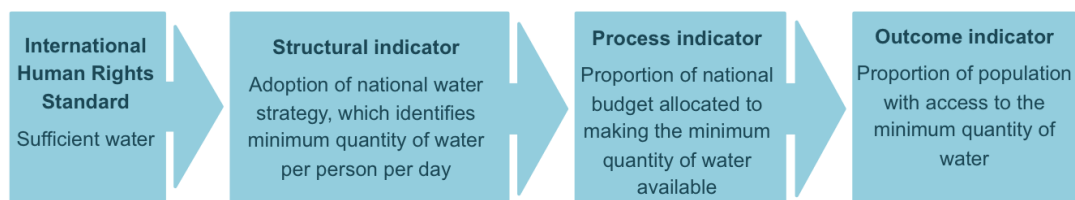
while other countries have water collection points, such as boreholes, as the main distribution system. Regularity of water might be very different in urban areas where households have individual taps and disruptions might occur on a daily or weekly basis; than in rural households, where disruptions in water supply might often be longer term and dependent on seasonal rainfall patterns.

National targets: When identifying national targets, the international benchmarks identified in Module I can be used as guidance. It is impossible to identify generic global benchmarks that encompass all the differences between countries in terms of resources, infrastructure, geography, demography etc. Even within countries it might be difficult to set national targets if there are substantial differences between different parts of the country or between rural and urban areas. Ideally targets should be clearly defined in national laws, policies and regulations so the state can be held accountable for meeting the targets. National target setting can take into consideration progressive realisation, for instance by setting yearly targets for gradually realising the right fully. Many countries do this in National Development Plans and other policy documents.

National indicators and targets help build a shared understanding about the content of the right to water among all stakeholders. When states define national targets for service delivery it is often part of a broader prioritisation of the state's human, financial and technical resources. The DIHR AAAQ Toolbox can be used to ensure that human rights considerations are taken into account when national indicators and targets are defined. The indicators and targets can feed into contractual agreements with private sector providers, thereby ensuring that service delivery is compliant with human rights standards, e.g. the number of boreholes per 1000 persons. For civil society, national targets are a useful entry point for monitoring and advocacy of the right to water, e.g. through lobbying for higher targets or monitoring of the degree to which the targets are met. NHRIs can use the national indicators and targets for human rights monitoring and reporting to e.g. contribute to the Universal Periodic Review (UPR) process.

Human rights indicators can be divided into Structural, Process and Outcome Indicators as shown in the figure on the following page.

Figure 6: Example of human rights indicators for the Availability Criterion



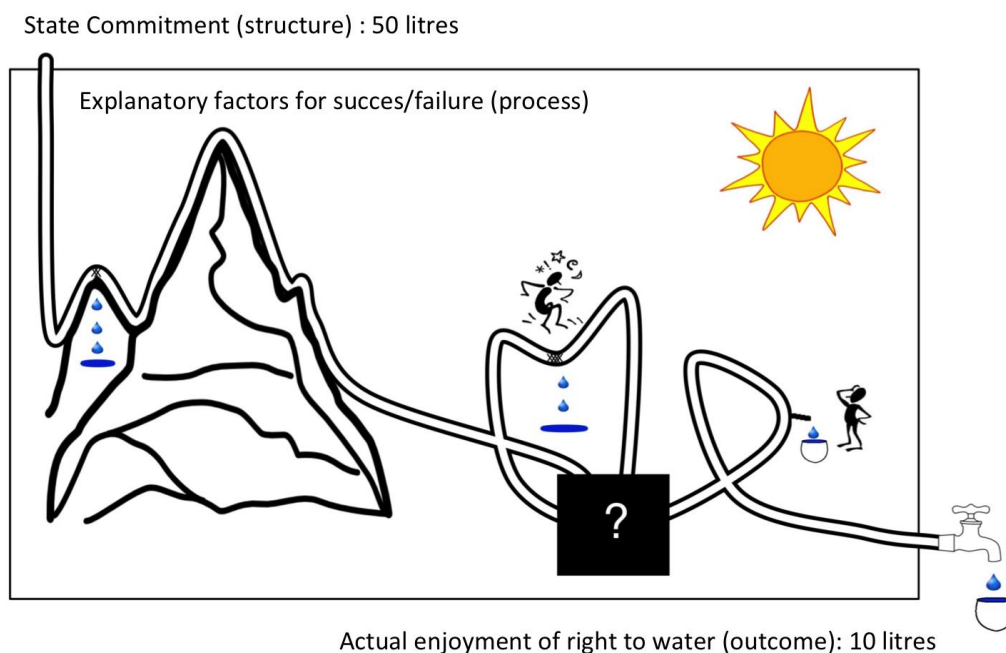
Structural indicators: measure the state’s acceptance and commitment to realisation of human rights through adoption of legislative, policy and regulatory frameworks, policies and mechanisms to respect, protect and fulfil human rights. The structural indicators relate to the status on certain documents (ratification of treaties, enactment of laws and adoption of policies). Structural indicators also relate to AAAQ standards set out by the state in legal and policy instruments and mechanisms. Some states pledge specific AAAQ standards in their water legislation, regulation and strategies and an analysis of these documents can help define the process and outcome indicators.

Process indicators: measure the state’s ongoing efforts to transform legal and policy commitments into the desired results through design, implementation and monitoring of programmes for progressive realisation of human rights. The process indicators relate to the state’s *obligation of conduct*, which requires state action to realise the enjoyment of a right through implementation of policies and allocation of resources. To some extent the policy efforts can be measured by quantitative indicators, but the assessment of policy efforts often requires qualitative analysis of policies, regulatory frameworks and institutions that cannot be measured by quantitative indicators. The AAAQ criteria can guide analysis of the processes in the interface between commitments and end right holders’ actual enjoyment of the rights to water, as measured through AAAQ indicators.

Outcome indicators: measure the actual level of realisation of human rights from the perspective of the rights holders; and captures the effects of the state’s structural and process oriented initiatives to respect, protect and fulfil human rights. The outcome indicators relate to the state’s *obligation of result*, which requires states to achieve specific targets to satisfy a specific human rights standard. To the extent possible, the realisation of the right to water should be assessed via quantifiable indicators in order to compare data for different groups in society; to monitor progress or regression over time; and to provide an overall snapshot of the situation in a country. Qualitative indicators can be useful to add further depth to the analysis if they are carried out systematically.

The interconnectedness of structural, process and outcome indicators is illustrated in the figure below.

Figure 7: Structural, process and output indicators



As illustrated in the figure, process indicators are the link between the structural and outcome indicators because they measure the state's specific initiatives to translate law and policy into delivery of water services to the population. While the state's commitments for realisation of the right to water is set out in law and policy, many challenges can occur in terms of implementation of the different water resource management schemes.

Indicators help us define and assess human rights in practical and measurable terms. Based on an analysis of the stakeholders (Component 4), the structural indicators (Component 5), outcome indicators (Component 6) and process indicators (Component 7) indicators can be defined and agreed upon by all stakeholders.

3.1 COMPONENT 4: STAKEHOLDER ANALYSIS

” As the management of some aspects of the drinking-water system often falls outside the responsibility of a single agency, it is essential that the roles, accountabilities and responsibilities of the various agencies involved be defined in order to coordinate their planning and management. Appropriate mechanisms and documentation should therefore be established for ensuring stakeholder involvement and commitment

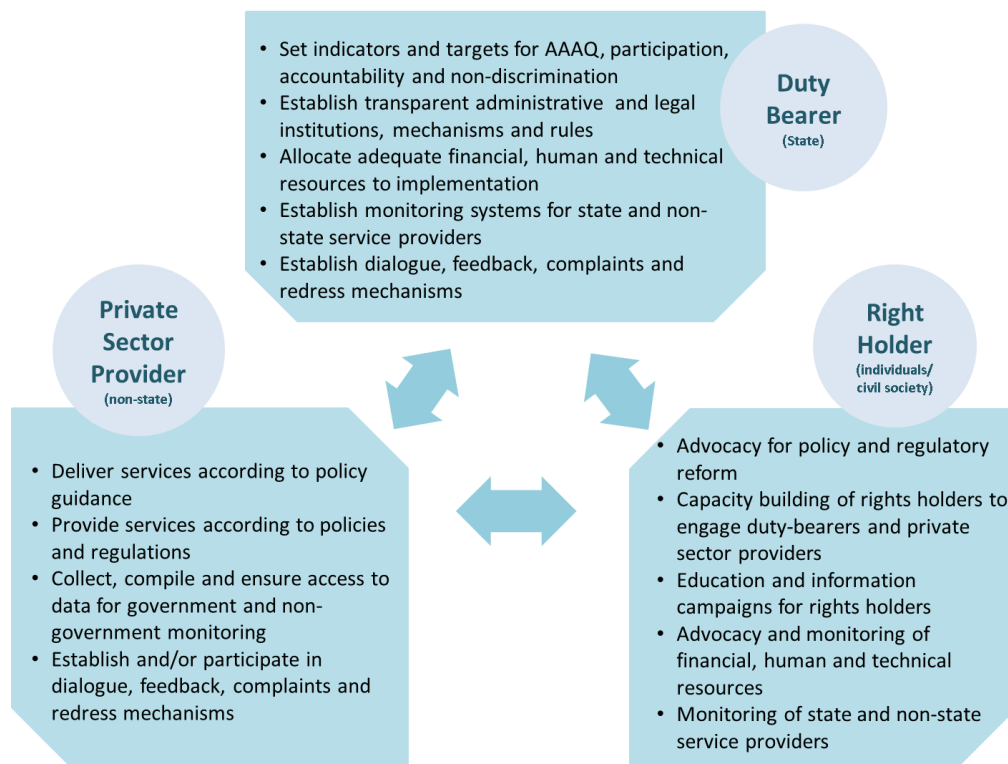
(WHO Guidelines for drinking-water quality and sanitation)

The aim of this component is to guide the user through a stakeholder analysis from an AAAQ perspective. In its simplest form the analysis can draw on existing reports and material produced by national and international actors, which can be accompanied by additional analysis through interviews and stakeholder consultation. In order to simplify the analytical process, the stakeholder analysis takes its point of departure in the national laws, rules and regulations, which set out the expectation to various state and non-state actors at national and local level.

From a human rights perspective a distinction is made between the state, private sector providers and rights holders. The state is always the duty bearer with an obligation to respect, protect and fulfil the right to water; however, in many countries the delivery of water services is shared between the government, development partners, private companies, civil society and other actors. These private sector providers also carry some degree of duty bearer responsibility. Rights holders are often represented by civil society, but it is important to keep in mind that civil society organisations do not always represent all groups in society. Therefore targeted efforts should be made to identify vulnerable, marginalised and other groups in society to ensure their perspectives are included in the stakeholder analysis.

The figure on the following page illustrates some of the roles and responsibilities of duty bearers, private sector providers and rights holders.

Figure 8: Roles and responsibilities of duty bearer, rights holders and private sector providers



The stakeholder analysis seeks to analyse the relationships between duty bearer, private sector providers and rights holders and how these relationships are managed. This includes a mapping of the law and policy provisions guiding water delivery and service as well as an assessment of how these provisions are implemented in practise. The analysis includes the political, social, economic and administrative systems for decision making and delivery of water services, including infrastructure. Furthermore, the HRBA principles of equality and non-discrimination, participation and accountability should be adhered to in law, policy and practise. In many cases the state decentralises responsibility for water delivery and service to local government, and in this case a review of by-laws and other regulations at local government level might be necessary to establish a clear overview of the local stakeholder structures.

The following steps can be included in the stakeholder analysis:

1. Identify and assess the relationship between the duty bearer and private sector providers

The state is the duty bearer but in many cases services are delivered by private sector providers. The relationship between the state and the private sector providers is usually reciprocal; the state sets out expectations and requirements to private sector providers through tenders and contracts and the providers receive financial or other remuneration for delivery of service according to the formal requirements. It is important that the contracts, rules and regulations are open for public scrutiny and that there are avenues for the public to file complaints if abuses occur. The policy rationale for states to closely monitor these issue areas is particularly strong, as the states delegate duty to these actors.

2. Identify and assess the relationships between the duty bearer and the rights holders

Regardless of who delivers goods and services to the rights holders, the state is accountable to its duty to respect, protect and fulfil human rights. In addition to securing adequate water, this responsibility entails that the state establishes relevant mechanisms for public participation in policy and decision making; accountability mechanisms for complaints and redress and ensuring that all rights holders are treated equally in law and practise. In long-term development planning, the state should ensure that the rights holders' perspectives and needs are taken into account, either through direct consultation or by engaging civil society in the formulation of development strategies.

3. Identify and assess the relationships between the private sector providers and the rights holders

In many countries, the private sector providers can charge a fee for delivering water services, and the relationship to the rights holders can be similar to any other supplier-customer relationship. All private sector providers are responsible for delivering the services set out in the contracts, rules and regulations as agreed with the state. If the private sector providers do not live up to their obligations, the rights holders should have access to remedy.

4. Identify and assess the role of other stakeholders

The relationship between duty bearer, private sector providers and rights holders cannot be seen in isolation. There is a wide range of stakeholders that do not have direct roles and responsibilities in water delivery and service, but have interests and/or specific functions in relation to ensuring the efficiency of the

institutional systems and processes. For instance, international human rights institutions set out the international human rights standards and principles for the right to water; private companies might contribute to abuses of the right to water through pollution; donors might provide financial and other assistance to any of the three stakeholders; and other stakeholders (e.g. traditional leaders or churches) might exert formal or informal power over duty bearers, private sector providers and rights holders. An analysis of these stakeholders can consider their mandate, responsibilities, interests, competencies, attitude, power and networks and how these relate to the duty bearers, private sector providers and rights holders.

5. Assess the adequacy of institutional arrangements

The mapping of stakeholders' roles and responsibilities forms an analytical framework that can be used to examine how stakeholders act and relate to each other in practice. Informal relationships and power structures should also be considered. In many instances the informal arrangements at local level can differ significantly from the formal roles and responsibilities, e.g. when water services are being delivered by NGOs or religious organisations or in the absence of state and government institutions and agencies at local level. The table below suggests some analytical questions that can guide the analysis.

Table 4: Guiding questions for assessment of institutional arrangements

Legal/policy mapping (top-down approach)	Implementation of laws/policies (bottom-up approach)
<ul style="list-style-type: none"> • Are the institutional arrangements in the water sector adequately responding to human rights concerns and conditions in the national and local context? • Do rules and regulations sufficiently define the roles and responsibilities of stakeholders? • Are rules and regulations adapted to the conditions in the national and local context? 	<ul style="list-style-type: none"> • To what extent do stakeholders fulfil their roles and responsibilities at national and local level? • How do informal relationships between stakeholders and power-dynamics influence the water sector and water delivery and services at local level? • How do rights holders relate to stakeholders with formal and informal roles and responsibilities?

3.2 COMPONENT 5: STRUCTURAL INDICATORS

” Structural indicators reflect the ratification and adoption of legal instruments and the existence as well as the creation of basic institutional mechanisms deemed necessary for the promotion and protection of human rights

(OHCHR: Human Rights Indicators – a Guide to Measurement and Implementation, 2012)

The purpose of this component is to identify structural indicators which can be used to assess to the state’s level of explicit acceptance and commitment to realise the right to water. The structural indicators identify whether relevant legal and policy documents have been adopted by the government. The content of the constitution, legal and policy documents should ideally set out the guarantees for service delivery (outcome indicators) and establish the water management systems, structures and programmes (process indicators).

The state’s *acceptance* of the right to water can be measured by the ratification and domestication of international and regional human rights treaties; and the *commitment* can be measured by the extent to which the state has established adequate constitutional, legal, policy, institutional and judicial frameworks for promotion and protection of the right to water. The constitution and laws provide the legal basis for protection and promotion of the right to water, while the policy framework translates the legislation into an implementable programme of action. The national legal and policy documents set out the state’s objectives, policy framework, accountability and remedy mechanisms, strategies and plan of action in relation to the right to water. These may be supplemented by detailed sets of regulations at various levels with some possibility of variation to fit local circumstances.

1. State acceptance of the right to water

The state’s acceptance of international human rights standards are reflected in the ratification of the relevant human rights instruments, in particular the ICESCR.

2. State commitment to realisation of the right to water

The highest level of commitment is the constitution, which in many countries explicitly recognises the right to water. Furthermore, various elements of the right to water are often included in other pieces of legislation relating to water, health, local government, traditional leadership, etc.

EXAMPLES OF STRUCTURAL INDICATORS:

International human rights treaties, relevant to the right to water, ratified by the state;
Time frame and coverage of national water and sanitation strategy;
Date of entry into force and coverage of measures to prevent, treat and control diseases linked to water.

The table on the following page summarises the structural indicators derived from the General Comment 15 to the ICESCR as well as an illustrative list of legal and policy documents in Zambia.

Table 5: Examples of structural indicators for the right to water in Zambia

Indicator		Content	
State acceptance of the right to water		Signed	Ratified
Number of relevant human rights treaties identified	ICESCR, art. 11 and 12	Yes	1984
	Convention on the Elimination of All Forms of Discrimination against Women, art. 14.2(h)	1985	
	Convention on the Rights of the Child, art. 24.1 and 24.2 (c)	1991	
	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	2008	
	Convention on the Rights of Persons with Disabilities, art. 28.2 (a)	2008	
	African Charter on the Human and Peoples' Rights (BANJUL) art.16 and 18	Yes	1984
	African Charter on the Rights and Welfare of the Child, art. 14.1 and 14.2(c)	1992	
	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, art. 15(a)	Yes	2006
State commitment to realisation of the right to water		Entry into force	Coverage
Adoption of right to water in national legislation	The Constitution of Zambia, art. 112 (d), (e), (f),(g),(h),(l),(j)	1991/2009	
	The Water Resources Management Act 2011	2011	
	National Water Supply and Sanitation Act, art. 10, 16(a), 23, 26	1987	
	The public Health Act, art. 66, 67 (1,2,3,4)	1930	
	The Local Government Act, (Cap.281), art. 9, 60, 61, 65 (1,2)	1991/2004	
	The Chiefs Act (Cap 287), art. 3(1a), (1b), 3 (2a), (2b), 18	1965/1994	
	Registration and Development of villagers Act, section 8 (d)	1971/1994	
	Customary Law	N/A	
Adoption of national water and sanitation strategy	National Water policy, art. 1.2.2, 2.2.7, 2.3.1 and 2.6	1994	
	The Water Board (charges and fees) Regulation, art. 1-8	2006	
Adoption of national plan of action	National Urban Water Supply and Sanitation Programme		2009-2030
	National Rural Water Supply and Sanitation Programme		2006-2015
	Sixth National Development Plan		2011-2015
	National Water Supply & Sanitation Council (NWASCO), Strategic Plan		2011-2015
Measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation	National Water Supply & Sanitation Council (NWASCO), Guidelines on Required Minimum Service Level.	2000	

The structural indicators are a simple way of taking the temperature on whether a state has adopted relevant laws and policies (in countries where customary law is formally accepted, this should be considered in the overview of the legal and policy framework). However, the existence of laws, policies, strategies and action plans is only the first step towards realisation of the right to water. The content of these documents set out in specific terms what the state seeks to achieve and how it seeks to achieve it. The next two sections guide the user through the process of identifying indicators through an analysis of the legal and policy framework.

3.3 COMPONENT 6: OUTCOME INDICATORS

” Outcome indicators capture individual and collective attainments that reflect the state of enjoyment of human rights in a given context. An outcome indicator consolidates over time the impact of various underlying processes

(OHCHR: Human Rights Indicators – a Guide to Measurement and Implementation, 2012)

The outcome indicators are identified through the analysis of the legal and policy documents listed under structural indicators. Outcome indicators are directly related to enjoyment of the right to water and measure the result of the state’s multiple efforts to establish and implement law, institutions, policies and strategies for water services.

The outcome indicators measure the state’s *obligation of result* and take the rights holders’ point of view with regards to the quantity of water, distance to water sources, adaption to cultural customs, etc. These indicators can often be measured quantitatively; e.g. percentage of the population for which water is Available, Accessible, Acceptable and of adequate Quality⁸. In some cases qualitative indicators might be more useful, in particular in relation to the Acceptability criterion. Outcome indicators are often long-term in nature and can only slowly be improved over time. For instance, an increase in the amount of water available in a town might require expensive and long-term infrastructure development programmes and improved access to water collection points by

vulnerable groups might require long-term efforts to change community perceptions about equality and non-discrimination.

EXAMPLES OF OUTCOME INDICATORS:

Proportion of population spending less than 30 minutes per day on collecting water;

Number of reports of physical threats to collecting of water;

Average accumulated period without water per year.

The process of identifying indicators can include the following steps:

1. Mapping and review of content of relevant documents

The right to water is seldom fully covered in one piece of legislation and/or policy, and therefore identification and analysis of the documents listed as structural indicators often require a comprehensive review of the legal and policy framework in the country. Through a comprehensive mapping of laws, policies, regulations, guidelines and other documents a compilation can be made of all relevant information that can be translated into specific indicators and targets for measuring the right to water. The initial mapping will result in a list of specific references to each of the AAAQ criteria in the different documents. Similar to the methodology for identifying the international standards, indicators and benchmarks for the right to water, the national analysis can follow a hierarchy of authority of the sources. At the national level, the highest level of authority is usually the constitution, which is followed by laws, regulations, customary law, policies, action plans and documents produced by local and national academia and NGOs, donor agencies and other actors. Particularly in rural areas, rights to water are frequently protected by customary law which may govern issues such as use of and access to water resources. Although this law may be unwritten and local, it may be the main source of protection of vital rights and may represent the local wisdom as to how water resources are stewarded. In principle, this law is often recognised as legally binding, but those trying to assert rights under it may be in a weak position.

2. Identification of indicators

If a generic international indicator has been identified (Module I) it should be considered whether this indicator covers the national context adequately and whether the national legal and policy documents address this indicator directly or indirectly. If this is not the case, it should be decided whether the international generic indicator is to be adopted or if an alternative indicator should be formulated. If a generic international indicator has not been identified in Module I, a national indicator should therefore be formulated, taking into account the conditions in the local context. For instance, it is very difficult to identify international generic indicators for the Acceptability criterion -which is dependent on the local cultural, religious, political and social context.

3. Identification of targets

In some instances, targets might be clearly defined in legislation and policy, e.g. many countries have adopted the Millennium Development Goals, which includes a target for ensuring that 89 % of the population has access to an improved water source. However, in many cases the state's policy commitments do not directly reflect the AAAQ criteria and it is therefore necessary to either adopt the international benchmarks directly or to define alternative indicators. Furthermore, it is necessary to consider non-discrimination, i.e. who are the people who do not have access to an improved water source. Keeping the obligation to progressively realise the right to water in mind, it can be useful to set intermediate targets in situations where the gap between the actual level of the indicator is very low compared to the international benchmark (e.g. if the average availability of water is only 5 litres compared to the intermediate benchmark of 20 litres per person per day).

4. Assessing compatibility with international human rights standards

When the national indicators and targets have been identified, it is possible to compare indicators and targets set out in national legislation and policy with international human rights standards, indicators and benchmarks for the right to water. The comparison will highlight (i) whether the commitment in the national legal and policy framework reflects the human rights standards, indicators and benchmarks, e.g. if a commitment is made to ensure availability of 50 litres of water per person per day; and (ii) whether there are certain elements of the right to water, which is not adequately addressed in the domestic legal and policy framework. For instance, a country might give high priority to securing availability of water at village or district level, but pay inadequate attention to addressing accessibility for vulnerable groups or access to information and public participation.

The table below illustrates how the analysis can be structured.

Table 6: Example of AAAQ analysis of laws and policies in Zambia (Availability)

International generic indicator	International generic benchmark	Authoritative sources (legally binding) Constitution, laws, by-laws	Secondary sources (not legally binding) Policies, Strategies, Plans of action	National indicator	National targets, set in law or policy	Compatible with international standards?
Quantity of water used per person per day	Inter-mediate: 20 litres Objective: 50 litres	The State shall endeavour to provide clean and safe water, adequate medical and health facilities and decent shelter for all persons, and take measures to constantly improve such facilities and amenities; Source: Zambia's Constitution, Article 112	Ensuring equitable distribution of wealth in a society whose members have property rights, access to adequate and affordable housing, safe and clean water and proper sanitation Source: Zambia Vision 2030	Litres per person per day	Minimum 20 litres per person per day Source: Coverage Parameters for Rural Water Supply in Zambia, 1996	Inter-mediate: Yes Objective: No

Outcome indicators provide a framework for measuring and monitoring the level of realisation of the right to water in the local context. However, outcome indicators do not necessarily address the causes and effects that lead to achievement of the indicators. The next Component explains how process indicators can be used to identify and measure the processes that lead to achievement of indicators.

3.4 COMPONENT 7: PROCESS INDICATORS

” Process indicators measure duty bearers’ ongoing efforts to transform their human rights commitments into the desired results. Unlike with structural indicators, this involves indicators that continuously assess the policies and specific measures taken by the duty bearer to implement its commitments on the ground

(OHCHR: Human Rights Indicators – a Guide to Measurement and Implementation, 2012)

The process indicators reflect measures taken by the state to realise the right to water. According to Article 2 of the ICESCR, states should “take steps, *individually and through international assistance and co-operation*, especially economic and technical, to the *maximum of its available resources*, with a view to *achieving progressively* the full realization of the rights recognized in the present Covenant *by all appropriate means*, including particularly the *adoption of legislative measures*”.⁹ These *obligations of conduct* require that adequate institutions and mechanisms are established to identify, implement and monitor the steps taken by the state to realise the right to water.

The structural indicators measure whether the policy commitment is in place and the outcome indicators measure whether the right to water is realised for the rights holders. Process indicators should be designed in such a way that they capture information which can help “identify all the measures, by way of *policies and programmes*, to attain outcomes related to the realization and enjoyment of the right”.¹⁰

The process indicators seek to answer the following questions:

- 1) Are the government’s programmes and plans adequately addressing the human rights standards?
- 2) Why do or don’t the government’s programmes and plans lead to the intended results?
- 3) Are there more efficient and effective ways of achieving the intended results? and

- 4) Do policy decisions lead to unintended negative human rights impacts (e.g. building a large dam to provide a water supply to a city that results in loss of water supply to local people).

Process indicators can be quantitative and measure, for example, budget allocation to water infrastructure, the geographical coverage of piping systems and state programmes, the number of boreholes per 1000 persons in rural areas or specific efforts made to provide services to vulnerable groups. Process indicators can also be derived from a qualitative analysis of the water resource management systems and institutions and whether these institutions have adequate consultation, complaints and redress mechanisms in place as well as the efficiency of these mechanisms. If a NHRI has been established, the analysis can include an assessment of the mandate, independence and the state's response to recommendations and statements made by the NHRI. Other relevant actors can include, for example, water regulatory bodies, water management committees and formal and informal justice institutions.

It can be difficult, and sometimes impossible, to reduce the complex water management and development processes to specific and measurable indicators. In some instances, a qualitative contextual analysis might be a better approach.

Therefore, stakeholder engagement and dialogue at national and local level are essential when analysing and discussing appropriate programmes to deliver services to the population in a non-discriminatory manner and ensure compliance with the HRBA principles of participation and accountability, including the setting up of redress mechanisms. Ideally the analysis should include all four AAAQ criteria as well as the crosscutting HRBA principles of equality and non-discrimination, participation and accountability. The specific content of the process analysis depends on the national context. The table on the following page lists some examples of elements that could be included in the analysis.

Table 7: Analytical framework for an AAAQ process indicator analysis

Criteria	Financial resources	Human resources (public and private organisations involved in water management)	Technical resources for water service delivery
AAAQ	Allocation and utilisation of financial resources allocated to water management and to ensuring Availability, Accessibility, Acceptability and Quality of water	<p>Number of qualified staff in public and private water management involved in ensuring Availability, Accessibility, Acceptability and Quality of water</p> <p>Level of knowledge and skills of staff</p> <p>Efficiency in organisation in public institution and relevant aspects of the private sector</p> <p>Capacity of duty bearers to meet their obligations</p> <p>Oversight roles, good governance and M&E practise</p>	<p>Quantity and quality of infrastructure to ensure Availability, Accessibility, Acceptability and Quality of water</p> <p>Efficiency in mechanisms for planning and prioritisation of investments and maintenance of infrastructure</p> <p>Efficiency in mechanisms for M&E and sanctions on contractual delivery by infrastructure contractors</p>
Participation	Participation of rights holders/ relevant stakeholders including most vulnerable groups in development of local and national budgets and development plans for the right to water	<p>Procedures for staff engagement with rights holders</p> <p>Capacity of staff to engage with rights holders</p> <p>Capacity of rights holders to engage with duty bearers and private sector providers</p>	Avenues for the rights holders to provide input in a meaningful and timely manner to planning of technical and infrastructure development projects
Accountability	<p>Access to information in timely fashion and acceptable form about budgets, expenditure and development plans</p> <p>Transparent and accessible mechanisms for rights holders monitoring of budgets</p>	Transparent and accessible monitoring body and complaints mechanisms for feedback and redress for conduct of public and private sector staff in the water management sector	Transparent and accessible monitoring body and complaints mechanisms for feedback and redress for inadequate provision or utilisation of infrastructure
Equality and non-discrimination	Budget allocations to cater for the needs of vulnerable and marginalised groups	Capacity of staff to engage vulnerable and marginalised groups and respond to their needs and promote equality.	Design of water facilities in accordance with needs of vulnerable and marginalised groups

CHAPTER 4

4 MODULE III: ACTION PLANNING

Module II guided the process of contextualisation of the international AAAQ Framework and translation of the international and national human rights commitments into an indicator system, which can be used by states, private sector and civil society providers and community members.

Module III focuses on the practical application of the DIHR AAAQ Toolbox and contains examples of how NHRIs, states, private sector providers and civil society can apply AAAQ tools and methodologies in their work. The sections in this Module are inspirational rather than comprehensive in nature and focus on particular perspectives AAAQ and HRBA can bring into existing methodologies and tools (e.g. advocacy planning or treaty body reporting).

DIHR is continually improving the methodologies and approaches in the AAAQ Toolbox and developing new tools and guidelines for different stakeholder groups. All research and development is based on in-country processes and pilots in cooperation with DIHRs partners. DIHR can facilitate a wide range of processes and projects for implementation of the tools and methodologies in the DIHR AAAQ Toolbox, for instance:

- Support NHRIs in integration of the DIHR AAAQ Toolbox in monitoring and reporting systems (e.g. for UN treaty bodies or national Parliaments), research, complaints handling, human rights education and information.
- Train NHRIs, state actors, businesses and civil society in practical application of the DIHR AAAQ Toolbox.
- Facilitate in-country multi-stakeholder processes for development and adoption of national AAAQ indicator frameworks.
- Support states in integrating the DIHR AAAQ Toolbox into national policies and regulation and developing tools and methods for implementation, monitoring and evaluation of development programmes.
- Support businesses in integrating the DIHR AAAQ Toolbox in business strategies, operations and systems for performance management and customer relations.
- Support civil society with monitoring, advocacy and civic education.

4.1 NHRI ACTION PLANNING

NHRIs are independent administrative institutions set up and funded by the state. NHRIs can be organised in different ways, e.g. as Human Rights Commissions, Ombudsman Institutions, Consultative and Advisory Bodies or Institutions or Centres. The NHRI mandate can be divided into two broad categories: (i) Protect human rights, e.g. by receiving, investigating and resolving complaints, mediating conflicts and monitoring activities; and (ii) Promote human rights, through education, outreach, media, publications, training and capacity-building activities, as well as by advising and assisting governments. The CESCR has produced an indicative (but not exhaustive) list of the types of activities NHRIs can undertake¹¹:

Raise awareness through educational and information programmes designed to enhance awareness and understanding of ESCR, both within the population at large and among particular groups such as the public service, the judiciary, the private sector and the labour movement.

Support legal reform through review of existing laws and administrative acts, as well as draft bills and other proposals, to ensure that they are consistent with the requirements of the ICESCR.

Support implementation through technical advice and undertake surveys in relation to ESCR, including at the request of the public authorities or other appropriate agencies.

Setting standards through identification of national-level benchmarks against which the realisation of Covenant obligations can be measured.

Deepen knowledge through research and inquiries designed to ascertain the extent to which particular ESCR are being realised, either within the State as a whole or in areas or in relation to communities of particular vulnerability.

Monitor compliance with specific ESCR and **report** thereon to the public authorities and civil society and international human rights mechanisms such as, UPR and Treaty Bodies.

Examine complaints alleging infringements of applicable ESCR standards within the State.

Potential NHRI initiatives facilitated by DIHR include:

- Develop public information campaigns and material. The DIHR AAAQ Toolbox can be used to make the link between international human rights standards and systems and local realities clearer, thereby making human rights information relevant for rights holders.
- Develop indicator and monitoring frameworks to reflect the AAAQ criteria, thereby ensuring that analysis and reporting to the state, national stakeholders and international human rights mechanisms (e.g. UPR and Treaty Bodies) reflect the human rights standards and principles.
- Integrate the DIHR AAAQ Toolbox in curricula for human rights education, e.g. civic education, education of law enforcement agencies and the judiciary, human rights education in primary and secondary schools and training of civil society organisations in monitoring and reporting on ESCR.
- Develop checklists for handling complaints on ESCR. The DIHR AAAQ Toolbox can assist NHRIs in clarifying when a human right has been violated according to international and national law.
- Facilitate multi-stakeholder dialogue based on the DIHR AAAQ Toolbox to enable facts-based dialogue and joint action planning for realisation of ESCR.

4.2 STATE ACTION PLANNING

States are duty bearers with a responsibility to fully realise all human rights for all rights holders. The various arms of government have different roles and responsibilities. The executive sets out the policy direction and implements programmes to realise ESCR. The legislative defines the laws, policies, rules and regulations and the judiciary builds a system of remedy and redress for victims of human rights violations. The different types of activities carried out by the state can be categorised as follows:

Policy making where policy makers express objectives, strategies, indicators, targets and strategies for ESCR are set out. Human rights obligations of states provide the framework of policy making, just as human rights may serve as the basis for policy making. Policy making processes should be transparent, participatory and informed by rights holders' perspectives, needs and opinions.

Regulations for the different actors involved in realisation of ESCR, such as water regulatory institutions, public and private sector actors. Regulations can take form in national legislation or international treaties and is the means through which policy is implemented. Adequate mechanisms for rights holder feedback, complaints and redress should be provided through the rules and regulations.

Implementation of policies and regulations, e.g. upgrading infrastructure, building capacity of organisations and institutions, carrying out information and civic education activities and delivering services. Implementation is brought to life by, e.g. national, regional and local government, public and private institutions, as well as business and other non-state actors.

Monitoring of implementation seeks to measure the degree of (non-)realisation and compliance with human rights.

Evaluation of the (non-)desired effects on the implementation of human rights policy and regulations in order to improve the policy and regulatory framework and implementation mechanisms. Evaluation will also feed into feed-back to the many actors of society with a view to securing a proper basis for decision on basis of fact-based dialogue.

Potential state initiatives facilitated by DIHR include:

- Facilitate multi-stakeholder policy reform processes. The DIHR AAAQ Toolbox can help states integrate human rights considerations strategically in reform processes and align policy priorities and strategies with international human rights obligations and commitments.
- Integrate the DIHR AAAQ Toolbox into accountability mechanisms for public service delivery, such as public service charters or contracts and service level agreements with private sector providers.
- Integrate the DIHR AAAQ Toolbox into performance management mechanisms for public and private sector providers, which can improve the direct linkages between service delivery and human rights.
- Develop monitoring frameworks and methods for continuous assessment of efficiency in policy programmes, drawing on the considerations about ESCR and the HRBA in the DIHR AAAQ Toolbox. State driven monitoring can feed into national stakeholder engagements and reporting to international and regional human rights mechanisms such as, UPR and Treaty Bodies.
- Develop research tools and methodologies for analysis of results and impacts of programmes to realise ESCR based on the DIHR AAAQ Toolbox.

4.3 PRIVATE SECTOR PROVIDER ACTION PLANNING

This group consists of private, non-state actors providing goods and services for water management. All such actors regardless of their size, sector, location, ownership and structure¹² have a responsibility to respect human rights and ensure appropriate due diligence and remedies, although the scale and complexity of the measures taken will vary. In their own capacity, businesses have actual or potential impact on the right to water. When sub-contracting provision functions to businesses, the state effectively delegates elements of the duty to realise the right to water to these businesses. Furthermore, states have the duty to seek the private sector's support for the progressive realisation of ESCR. The UNGPs constitute the authoritative framework for human rights and business.

There are different types of activities private sector providers undertake in response, including¹³:

Developing human rights policy commitment which, is approved at the most senior level; informed by relevant internal and/or external expertise; stipulates human rights expectations of personnel, business partners and other parties directly linked to its operations, goods or services; is publicly available and communicated internally and externally to all relevant stakeholders; and is reflected in operational policies and procedures necessary to embed it throughout the organization.

Developing human rights impact assessments to understand the specific actual or potential impacts on specific people, given a specific context of operations. Typically this includes assessing the human rights context prior to a proposed business activity, where possible; identifying who may be affected; cataloguing the relevant human rights standards and issues; and projecting how the proposed activity and associated business relationships could have adverse human rights impacts on those identified. In this process, special attention should be paid to any particular human rights impacts on individuals from groups or populations that may be at heightened risk of vulnerability or marginalization, and bear in mind the different risks that may be faced by women and men.

Assigning responsibilities and support structures. Appropriate structures for accountability, transparency and participation are core elements of an operational integration. This includes assigning responsibility for addressing human rights to the appropriate level and function within the organisation and assigning adequate resources to deliver on the responsibility.

Tracking performance to ensure efficiency of the measures taken in preventing or mitigating adverse human rights impacts.

Communicating about the due diligence process and results, including providing a measure of transparency and accountability to individuals or groups who may be impacted and to other relevant stakeholders.

Potential private sector provider initiatives facilitated by DIHR include:

- Develop a policy on the right to water or integrate core right to water elements into existing policies based on specific AAAQ standards.
- Develop a goods and service provision charter setting out mandate, mission, and goods and service standards based on the AAAQ criteria, as well as principles guiding the provision in terms of the HRBA including accountability structures regulating the division of roles and responsibilities between the provider, state and other relevant actors.
- Develop an assessment of actual or potential impacts on the rights of users and communities within the footprint of the operation.
- Develop an AAAQ indicator set tailored to specific provision projects and activities.
- Undertake participatory processes in the planning, delivery and evaluation of provision projects and activities.
- Integrate AAAQ criteria, indicators and benchmarks into operational policies and procedures.
- Develop operational and reporting interfaces between AAAQ indicator sets and procedures and other frameworks and processes, including MDG and Sustainable Development Goals schemes, creating Shared Value initiatives and integrated water management programmes led by state actors, business, donors, UN agencies and other IGOs.
- Develop reporting, disclosure and communication measures supporting constructive appraisal of performance against stated AAAQ criteria, indicators and benchmarks by rights holders, local, national and international governance bodies and other relevant stakeholders.
- Develop water stewardship initiatives guided by AAAQ criteria, indicators and benchmarks.

4.4 CIVIL SOCIETY ACTION PLANNING

National and international civil society organisations have a wide range of objectives, strategies and methodologies. This manual focuses on civil society's role in representing rights holders' perspectives and views towards duty bearers and private sector providers. Activities of civil society can include¹⁴:

Information and awareness building to enable rights holders to understand their rights and take action to claim these rights.

Promotion of public participation to establish a culture where rights holders are adequately informed and consulted about policy decisions and their implementation.

Advocacy for improvements in laws and policies and their implementation at national and local level. This often entails that civil society **represents rights holders** in law and policy formulation processes to ensure laws, policies and regulations reflect the ideas, perspectives and needs of rights holders.

Monitoring of the human rights situation, including monitoring of implementation of policies, adherence to laws and regulations and service delivery.

Research and analysis to deepen knowledge among stakeholders about ESCR in the national context.

Potential civil society initiatives facilitated by DIHR include:

- Design and implementation of civic education and information campaigns on ESCR, using the DIHR AAAQ Toolbox to conceptualise the link between international human rights standards and local realities clearer, thereby making human rights information relevant for rights holders.
- Integration of the DIHR AAAQ Toolbox in existing tools and methodologies for e.g. budget tracking and monitoring, social accountability mechanisms and structures or public monitoring of service delivery.
- Capacity building of rights holders to participate in national and local policy making by using the DIHR AAAQ Toolbox to develop simple methodologies for presenting rights holders' perspectives in a systematic manner.
- Develop research and data collection tools by using the DIHR AAAQ Toolbox to bring human rights at the forefront of research and analysis at national, local or project level. There can be a focus on monitoring state and private sector actor compliance with targets for ESCR, impacts of business and development projects or the situation for marginalised groups.
- Develop evidence based dialogue and advocacy strategies using the DIHR AAAQ Toolbox to integrate international and national human rights standards and targets in local, national and international advocacy campaigns.

5 REFERENCES

- Committee on Economic, Social and Cultural Rights (CESCR) (1998): General Comment No. 10: The role of national human rights institutions in the protection of economic, social and cultural rights. Available at:
<http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx>
- Committee on Economic, Social and Cultural Rights (CESCR) (2002): General Comment No. 15: The Right to Water. Available at:
<http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx>
- Danish Institute for Human Rights (2014): The AAAQ Framework and the right to water – International indicators for Availability, Accessibility, Acceptability and Quality of water. Available at:
<http://www.humanrights.dk/publications/aaaq-framework-right-water>
- International Covenant on Economic, Social and Cultural Rights (1976). Available at:
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/cescr.aspx>
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. Available at:
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCESCR.aspx>
- The Office of High Commissioner for Human Rights (OHCHR) (2012): Human Rights Indicators – A Guide to Measurement and Implementation. Available at:
http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf
- United Nations (2011): Guiding Principles on Business and Human Rights – Implementing the United Nations “Protect, Respect and Remedy” Framework. Available at:
http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf
- United Nations Human Rights Council (2010): Human rights and access to safe drinking water and sanitation (A/HRC/15/L.14). Available at:
http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/15/L.14

END NOTES

¹ Danish Institute for Human Rights (2014): The AAAQ Framework and the right to water – International indicators for Availability, Accessibility, Acceptability and Quality of water

² Resolution A/HRC/15/L.14

³ In the DIHR AAAQ Toolbox, definitions for various stakeholders have been adapted to reflect the various roles and responsibilities in relation to realisation of ESCR. Further descriptions are provided in Module III of this manual

⁴ Age, Ancestry, Colour, Family Status, Marital Status, Physical and Mental Disability, Place of Origin, Political Belief, Race, Religion, Sex (including gender and pregnancy), Sexual orientation, Unrelated criminal conviction

⁵ International Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination against Women; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; International Convention for the Protection of All Persons from Enforced Disappearance; and Convention on the Rights of Persons with Disabilities

⁶ See the website of the Special Rapporteur for further details

<http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/SRWaterIndex.aspx>

⁷ The table includes standards set out in the ICESCR. The national analysis in Module II should also consider the standards set out in relevant regional human rights instruments

⁸ Percentages should be used with caution and when possible be disaggregated on prohibited grounds of discrimination

⁹ ICESCR Art 2 (1)

¹⁰ OHCHR (2012) Human Rights Indicators – A Guide to Measurement and Implementation, p. 79

¹¹ General Comment 10 to the ICESCR

¹² In technical human rights terms, business actors are defined as specialized organs of society performing specialized functions (UNGPs, *General Principles*)

¹³ Parts of these activity descriptions are derived directly from the UNGPs, paras. 16-22

¹⁴ Civil society is often engaged in direct service provision. In this manual these activities are considered under the section on private sector providers

A human rights based approach to development has gained a prominent role in the socio-economic development of countries around the world and the agenda for the development and realisation of the Sustainable Development Goals. Meanwhile, the challenge remains of translating the international human rights instruments and normative values into a model for development with a clarified methodology, analytical concepts and policy options. All involved actors need to know and understand what the right to an adequate standard of living means and how this can be achieved.

This Manual guides the reader through a process of developing an indicator-framework for the right to water in national, local and project level context. The key aims of the Manual are:

- To raise awareness of international human rights standards for the right to water and the human rights based approach
- To analyse the right to water within a specific geographic, economic, social, cultural and political context
- To develop a set of specific indicators for assessing the level of realisation of the right to water and human rights principles of equality and non-discrimination, participation and accountability in the water sector

The Manual is part of the DIHR AAAQ Toolbox that aims to support the operationalisation of the rights to water, sanitation, food, housing, health, and education by developing their respective AAAQ frameworks, Manuals and Action Planning Guidelines. Designed as a multi-stakeholder approach, the AAAQ Toolbox offers common methodologies for all stakeholders as well as tailored tools for states, rights-holders, business, civil society and National Human Rights Institutions (NHRIs).