

# DEVELOPMENT COOPERATION

*and the human rights to water and sanitation*



A/72/302 and A/72/127

Reports by the Special Rapporteur on the  
human rights to water and sanitation

**Léo Heller**



HUMAN RIGHTS TO  
WATER AND SANITATION

# INTRODUCTION

## Two reports

The first report (A/71/302) provides a preliminary analysis of the linkages between development cooperation and the human rights to water and sanitation, addressing funders' human rights approaches, the evolution of development cooperation in the sector and trends in funding patterns.

Based on the theoretical framework developed in the first report, in the second report (A/72/127), the Special Rapporteur examined how funders contribute to the realization of the human rights to water and sanitation through an empirical analysis of six case studies. After examining six different funders' policies, operational tools, and project instruments, the Special Rapporteur found that the human rights framework is not adequately incorporated in their development agendas, with varying degrees of alignment to it.


This user-friendly report is a summary of both reports. It combines the findings of the first report with the cases and framework introduced by the second report.

## Terminology

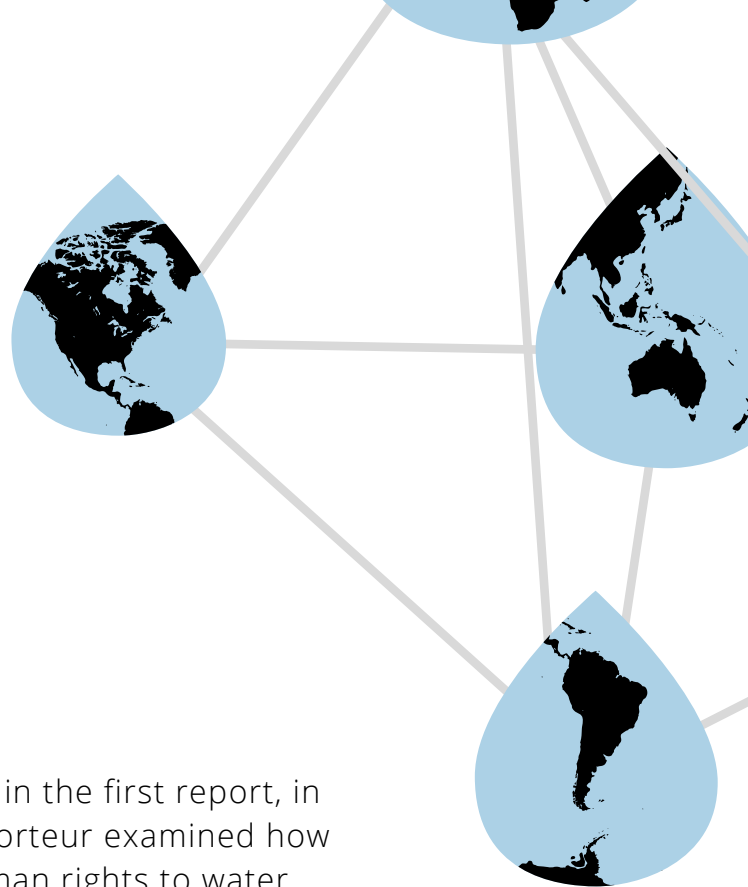
The term "development cooperation" is used although some sources use different terms, sometimes with slightly different meanings. The intention here is to highlight the relevance of both components:

 the purpose of this support to interested States

**DEVELOPMENT COOPERATION**

denoting a horizontal relationship between funders and recipient  
(partner) States 

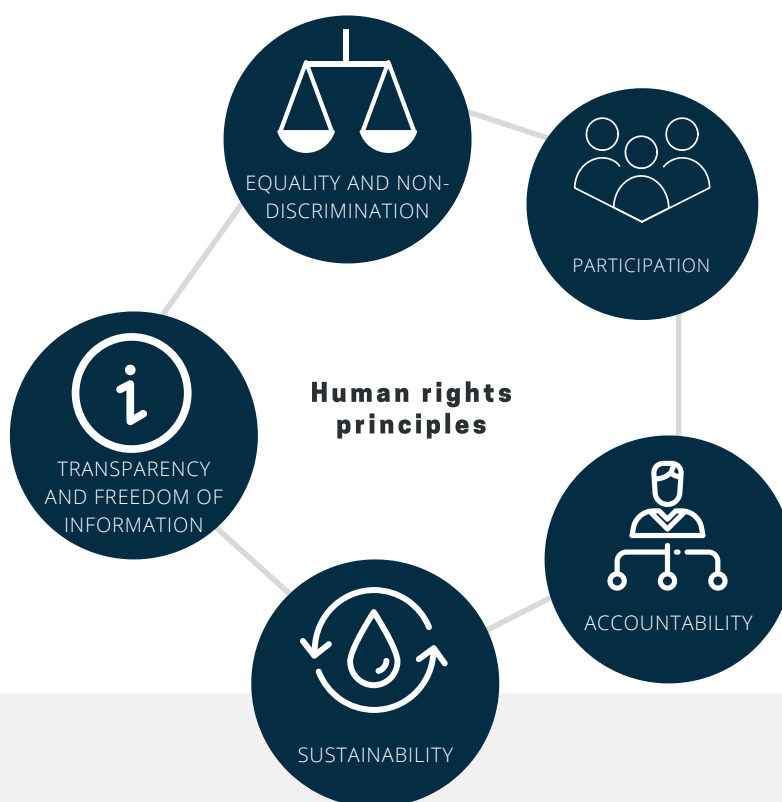
Conventionally, development cooperation includes actions such as grants, loans, debt forgiveness, technical and programming support and policy advice to partners States.



# Framework

The report assesses the roles that development cooperation can play in the SDG era, particularly to realize the human rights to water and sanitation and examines how it can be done in line with the human rights framework.

This framework includes both the normative content of the rights to water and sanitation and core human rights principles.



## How is development relevant to human rights?

- Development cooperation represents an important share of total funding for water and sanitation services in the global South, which is to increase pursuant to the 2030 Agenda.
- Additionally, development cooperation often establishes a benchmark for adequate conduct in the water and sanitation sector, not only for funders but also governmental agencies of partner countries. Such influence can significantly affect the prospects for the realization of the human rights to water and sanitation.

# HUMAN RIGHTS AND THE SDGs

From a human rights perspective, the Sustainable Development Goals are grounded in international human rights law and offers critical opportunities to further advance the realization of human rights for all people everywhere, without discrimination. The challenge now is to ensure that strategies and policies to implement the 2030 Agenda are effectively based in the established human rights framework.

## STRENGTHEN THE MEANS OF IMPLEMENTATION AND REVITALIZE THE GLOBAL PARTNERSHIP FOR SUSTAINABLE DEVELOPMENT

**GOAL 17** *Goal 17 is one of the several goals that are fundamental for the human rights to water and sanitation. Target 17.2 expresses the commitment of developed countries to fully implement their official development assistance commitments in a way that would significantly increase the amount of funds disbursed to partner States.*

## **GOAL 6** ENSURE AVAILABILITY AND SUSTAINABLE MANAGEMENT OF WATER AND SANITATION FOR ALL

*Targets 6.1 and 6.2 are explicitly linked to aspects of the human rights to water and sanitation.*

*Development cooperation is expected to play an important role in achieving SDGs. Target 6.a aims to expand international cooperation and capacity-building support to developing countries in water and sanitation related activities and programmes.*



## REDUCING INEQUALITY WITHIN AND AMONG COUNTRIES

### **GOAL 10**

- Integrating human rights throughout the development cycle helps to ensure that the needs of those living in the most vulnerable situations are prioritized, that services are provided in a safe and affordable way and that providers guarantee participation, access to information and accountability.
- Otherwise, those targets will most likely not be achieved through the traditionally technocratic way that the water and sanitation sector is usually managed. Such traditions also extend to development cooperation practice and often reflect how projects in this sector are selected, designed and managed.

## How are human rights relevant to development?

# WHO'S WHO IN DEVELOPMENT COOPERATION, and what are their responsibilities?

## FUNDERS - STATES



The role of funders is significant, as their decisions can have an impact on the realization of those rights in different ways, depending on the extent to which decisions are based on human rights standards and principles.

- States should ensure that their conduct is consistent with human rights standards and principles, pursuant to the international human rights treaties that they have ratified.
- States should facilitate the realization of the rights to water and sanitation in other countries in a manner that is consistent with human rights standards and that is sustainable and culturally appropriate.

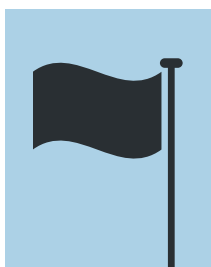
## FUNDERS - MULTILATERAL ORGANISATIONS



Provide and regulate lending policies, credit agreements, structural adjustment programmes and other development projects.

- Funders should cooperate effectively with States parties, building on their respective expertise, in relation to the implementation of the right to water at the national level.
- Funders should ensure that human rights are taken into account in their policies and programmes.

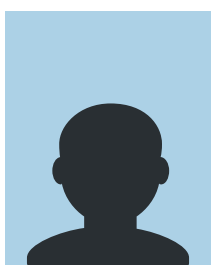
## PARTNERS - STATES



Cooperate with funder States to fulfil the human rights to water and sanitation.

- States should ensure that their conduct is consistent with human rights standards and principles, pursuant to the international human rights treaties that they have ratified.
- States that are not unable to fulfil their human rights obligations should formulate relevant plans and seek international cooperation.

## IMPLEMENTING ENTITIES - NON STATE ACTORS



Often provide in situ support and expertise, as well as aiding in the implementation of development cooperation projects.

- States continue to possess an obligation to ensure that all instruments for delegation, including contracts, are in line with human rights standards, contribute to the realization of the rights to water and sanitation and guide the activities of non-State service providers.

# HUMAN RIGHTS IN DEVELOPMENT COOPERATION

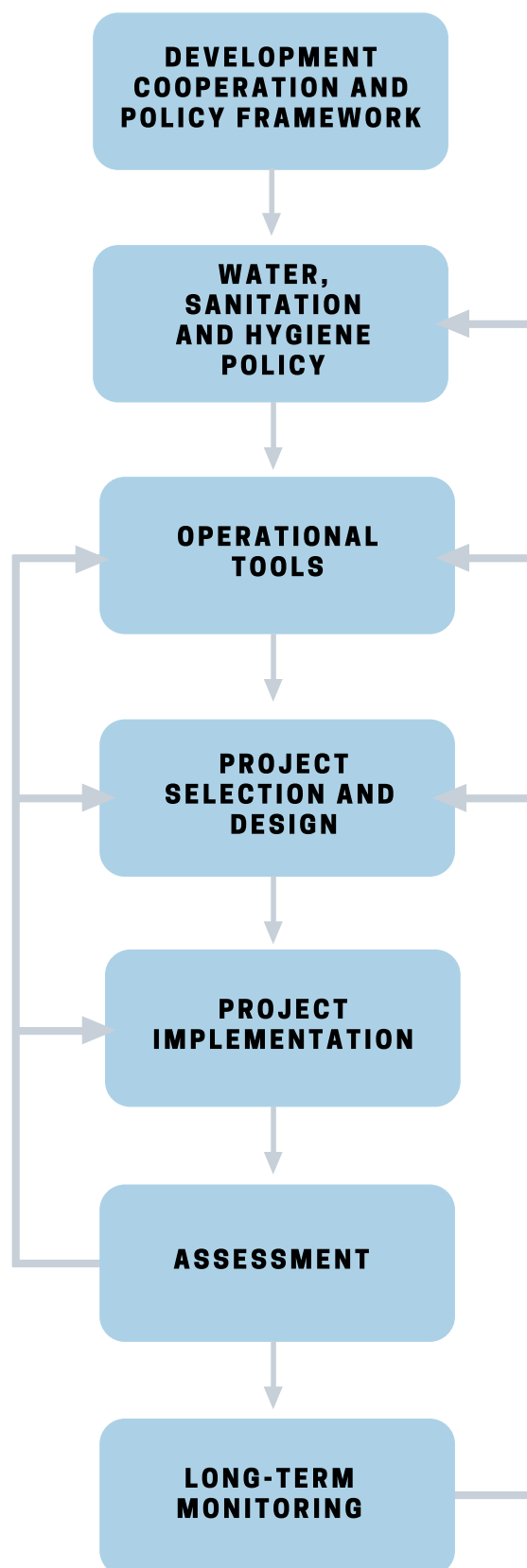
## The cycle

### What are the issues?

Development cooperation, even if well-intended can at times have a negative impact on a subset of service users. If conceived and implemented properly, it can assist partner States in transforming their water and sanitation sector and contribute towards the human rights to water and sanitation. However, when development cooperation projects are carried out with little commitment or clarity as to how those rights are integrated, projects may have negative impacts on individuals' rights to water and sanitation

### How to ensure integration?

The Special Rapporteur proposes the concept of a "human rights development cycle". In this hypothetical framework, stages are identified where funders can place guarantees and safeguards to ensure that their development cooperation will fully incorporate human rights. Within the human rights development cycle, it is expected that funders entrench the human rights principles and standards in each particular stage and in an integrated fashion throughout all stages. The framework constitutes a non-linear approach, since stages are not necessarily sequential.



## DEVELOPMENT COOPERATION AND POLICY FRAMEWORK

### **Key issue:**

Funders' policies can be considered to represent the first step according to which activities will be structured.

A thorough development cooperation policy framework with ingrained commitments to apply the complete framework of the human rights to water and sanitation helps ensure that those rights are reflected when setting priorities and strategies for development cooperation activities.

In addition to policies, partnerships and strategies between funders and partner States can determine broader objectives for development cooperation in WASH and may significantly influence the nature of funders' operations.

## WATER, SANITATION AND HYGIENE POLICY

### **Key issue:**

Incorporating the standards and principles of the human rights to water and sanitation in policies or strategies for the water and sanitation sector strongly contributes to ensuring that funders' activities realize those rights.

It is important to clarify that the observation of some human rights principles and normative content is not the same as the application of a human rights-based approach. To ensure an effective foundation for a human rights-based approach to development cooperation in the WASH sector, States and multilateral agencies must adopt a holistic view of policy, project and programme compliance within the human rights framework.

## **RECOMMENDATIONS ON POLICY**

*The Special Rapporteur recommends that States:*

*(a) That policies that specifically incorporate the standards and principles of the human rights to water and sanitation in their entirety be established so that those rights are reflected when setting priorities and strategies for development cooperation activities;*

*(b) That a focused strategy on water and sanitation be established in accordance with the human rights framework, with emphasis on its prioritization so that it is not subsumed into broader strategies or other thematic policies;*

*(c) That the human rights to water and sanitation be emphasized in funders' policy on specific groups, such as women, persons with disabilities and indigenous peoples, complementing overarching development cooperation policies;*

*(d) That funder States adopt national legislation recognizing the human rights to water and sanitation so as to ensure additional guarantees that those rights are applied in development cooperation policies and activities.*

# Funder policies: a summary

Within the framework of international human rights treaties, all levels of government, including development cooperation agencies, have obligations to adopt specific policies aimed at the realization of the human rights to water and sanitation in legislative form or in other measures.

Funders' policies can be considered to represent the first step according to which activities will be structured. Indeed, a thorough policy framework with ingrained commitments to apply the complete framework of the human rights to water and sanitation strongly contributes to ensuring that funders' activities are conceived and ultimately implemented in ways that realize those rights.

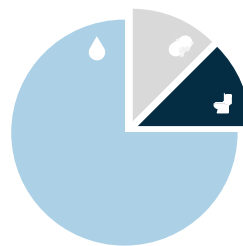
In his second report on development cooperation, the Special Rapporteur examined six different funders' policies, operational tools, and project instruments, through a human rights framework. Find the funder briefs:



## General findings

While some funders' policies consider the human rights framework, particularly the human rights to water and sanitation, others are only sporadically aligned with those rights and reveal limited clarity regarding their application to development cooperation. Similarly, while most funders' project assessments are mostly focused on attainment of project objectives and sustainability of services, a specific human rights-based assessment during and upon completion of projects was not observed.

The root causes of such gaps are varied, but include:



Imbalances in the type of projects that received funding



A lack of explicit recognition of the normative content of the human rights to water and sanitation, and human rights principles



A lack of human rights-based assessment



## OPERATIONAL TOOLS

### Key issue:

Operational tools are key to translating policy provisions into actual methods to realize the human rights to water and sanitation.

Funders employ a variety of practical instruments directed to project managers and operational teams to administer development cooperation activities in ways that comply with their policies and goals. Examples of such instruments include toolboxes, manuals and technical guidelines, which provide the particular benefit of being more adaptable and renewable than policy frameworks.

Thus, such instruments fulfil the purpose in the human rights development cycle of instructing funders' operational teams on how to maximize positive contributions to the realization of the human rights to water and sanitation. Yet, given the frequent absence of an obligation for funders and implementers to apply those instruments, their effectiveness can be limited.

## RECOMMENDATIONS ON OPERATIONAL TOOLS

*The Special Rapporteur recommends that States:*

- (a) Translate the human rights commitment in their policies into operational tools and training tailored to the realization of the human rights to water and sanitation in particular contexts;*
- (b) Make the use of such operational tools a requirement in all funding operations to guarantee the complete application of the human rights framework at the project implementation stage;*
- (c) Monitor whether those tools are implemented in project design and implementation.*

## PROJECT SELECTION AND DESIGN

### Key issue:

The way in which a given funder balances the types of projects that it supports is a proxy of how human rights concerns are considered in that funder's development agenda.

## PROJECT IMPLEMENTATION

### Key issue:

The share of projects through loans or grants and how they are allocated can have an impact on the progressive realization of the human rights to water and sanitation, affecting funders' capacity to influence project goals and partner States' potential financial burden.

Even when the human rights to water and sanitation are exceptionally mentioned in the initial project assessment documents, once the project is implemented, those rights are not specifically referred to in the main planning and assessment tools, such as the annual operating plans and the project monitoring documents.

# What aspects of project design and implementation are important in a human rights context?

## LEVEL OF SERVICES



Different levels and types of services are appropriate in different contexts.

Issues in current practices include:

- A preference for large infrastructure projects, which may only improve access for those who already enjoy some degree of access without extending access to those who continue to be excluded from even basic access, especially in peri-urban areas and informal settlements
- A focus on technological solutions that often prioritise water, omitting the guidance and assistance required in projects aiming to improve sanitation and hygiene.

## SUSTAINABILITY

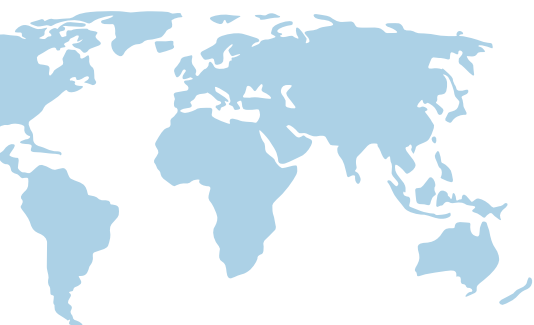
Achieving behavioural change in beneficiaries and institutions and creating awareness on safe drinking water, sanitation and hygiene services are fundamental to ensuring transformative development and sustainable water and sanitation projects. Yet efforts to achieve those objectives are seriously limited by time-based constraints that are common in development cooperation projects.

Funders require new and/or additional targets for a second phase, which can broaden the scope of the project instead of concentrating efforts on existing objectives.

The usual time frame for the full cycle of project implementation is

# 3-5 YEARS

## COVERAGE OF SERVICES



The principle of equality and non-discrimination sometimes requires the adoption of targeted measures and affirmative action in order to achieve substantive equality.

Applying a human rights approach to development cooperation in the water and sanitation sector would involve a greater emphasis on providing services for those populations who predominantly live in small, dispersed rural communities or in peri-urban areas.

## AFFORDABILITY

Improvements to partner States' water and sanitation services funded through development cooperation, even when provided without an obligation for full repayment, often entail an increased need for revenues from tariffs or taxes to keep those services operational and sustainable in the long term.

When funders impose conditionalities requiring full cost recovery through tariffs and the result is higher service fees for users, the affected users must be able to petition the amount of the tariff and seek recourse.



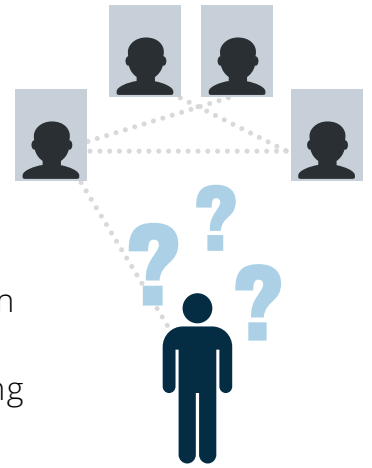
## **PARTICIPATION**

- 1** First, the participation of a diversity of stakeholders is relevant during the processes of planning, implementation, monitoring, and evaluation and assessment.
- 2** Second, establishing participatory processes between the funder and the beneficiaries at the level of project implementation is key. If the knowledge and expectations of beneficiaries are not incorporated into those processes, cooperation will never improve their access to water, sanitation and hygiene in a manner consistent with their cultural values and human rights principles.

## **ACCESS TO INFORMATION AND TRANSPARENCY**

From the perspective of rights holders, when beneficiaries of development cooperation projects have transparent access to information, they are more able to meaningfully participate in decision-making and are empowered to claim their rights and hold duty-bearers accountable.

From a broader perspective, ensuring the public's access to information on development cooperation projects enhances transparency and enables more effective monitoring of a funder's contribution to reducing inequalities and achieving the aims of its development agenda.



## **RECOMMENDATIONS IN PROJECT SELECTION, DESIGN AND IMPLEMENTATION STAGES**

*The Special Rapporteur recommends that States:*

*(a) Balance water and sanitation projects and coverage of those services between urban and rural areas in a way consistent with the progressive realization of the rights to water and sanitation in each context;*

*(b) Ensure that the selection, design and implementation of projects apply the framework for the human rights to water and sanitation, notably prioritizing those people in the most vulnerable situations;*

*(c) Identify and avoid any negative impact on human rights prior to and during project implementation;*

*(d) Ensure that the design and implementation of projects are carried out in a transparent manner with the participation of related stakeholders, including beneficiaries of the project, providing ample access to relevant information and including mechanisms to address the accountability of funders;*

*(e) Ensure that projects provide a sustainable financing strategy for long-term service provision, including affordable access to services and inclusion of all persons in service provision;*

*(f) Provide, in projects supporting institutional development and policies, lasting improvements to the capacity of local authorities and different stakeholders to actually adopt water and sanitation services in a way consistent with the human rights framework.*

## ASSESSMENT

### **Key issue:**

Assessing a project requires a set of methods balancing quantitative and qualitative assessments and covering the full range of the normative content of the human rights to water and sanitation and human rights principles.

Data must go beyond limited assessments of access and availability of services (for example, the number of houses connected to a piped network) and should include ways of identifying discrimination and inequalities, collection time and other barriers to physical access, water quality, safety, acceptability and affordability.

## LONG-TERM MONITORING

### **Key issue:**

Monitoring the realization of human rights through the implementation of water and sanitation projects requires improving funders' existing monitoring procedures by adjusting their scope, methods for data collection and indicators.

### **How can assessment and monitoring feed back into the development cycle?**

- The long-term sustainability of a project, as well as its impacts on human rights, can be assessed.
- Experiences and concerns that arose throughout the project and its implementation, as well as how those concerns were treated, can be documented.
- Lessons learned from monitoring data to feedback into future projects and make adjustments to fill the gaps identified.

## **RECOMMENDATIONS ON MONITORING AND ASSESSMENT**

*The Special Rapporteur recommends that States:*

*(a) Develop and systematically produce thorough assessment and monitoring based on the human rights framework, including assessment undertaken during and after the project implementation;*

*(b) Improve existing project assessment protocols by adjusting their scope, methods for data collection and indicators, including human rights principles;*

*(c) Monitor, on a long-term basis, project outputs and outcomes through indicators and qualitative analyses based on the human rights framework;*

*(d) Prepare studies that assess all stages of the funder's activities in the human rights development cycle, envisaging the application of the related findings to improve the funder's contributions to the realization of the human rights to water and sanitation;*

*(e) Utilize assessment and monitoring as feedback for operational tools and the project selection, design and implementation stages and to advocate that their officials give meaningful consideration to the related findings.*