

Development of Guideline Advice on Resilience to Pandemics and other Emergencies

with a focus on water quality and a human rights based approach

First phase review of results, presented to WWQA 2nd Annual Global Meeting

26th January 2021

www.humanright2water.org

Contact a.loeffen@humanright2water.org



Resilience to Pandemics and Emergencies

- Resilience means
 - Standards of the human rights to water and sanitation are upheld in the national legislation
- Assessment based on
 - Key attributes of the HRWS that are linked to hygiene, control of disease, and health
- Outcomes examples include
 - Continuity of supply
 - Availability for vulnerable people
 - Ensuring quality of drinking water
 - Affordability
 - Consideration of handwashing facilities
 - Management of contaminated waste

25 Countries in the Survey

**WHITE
& CASE**

- Piloted in Costa Rica and Mexico
- White & Case, international law firm supported research based on HR2W methodology
- Results from Phases 1&2 completed
- Benchmark assessments - trends
- Reference laws, policies and emergency decrees
- Prioritises vulnerable

Phase 1 complete	Phase 2 complete	Phase 3 in progress
Australia	Senegal	Brazil
Costa Rica	Kenya	Burkina Faso
Germany	Nepal	Morocco
Indonesia	Philippines	Turkey
Korea	Poland	El Salvador
Lebanon	South Africa	Guatemala
Mexico		Honduras
Palestine		Kazakhstan
Singapore		Uzbekistan
Slovakia		
Sweden		
Uganda		

Extract from the Resilience Tool

2. Quality

Water must be safe for consumption and other uses and not threaten human health. States enjoy a relative margin of discretion to establish quality standards while following WHO standards. Quality of water, provided by regular testing, and ensured by safe wastewater treatment and disposal, is essential to avoid spread of disease. Handwashing and hygiene habits are also strong indicators of quality.

2.	QUALITY	Yes=2 No=0	Reference text and link
2.1	Is the water supply quality tested on a regular basis to WHO or higher standards during the emergency?	2	Yes, on a regular basis although the frequency of sampling depends on the source of the water, the volume produced, the population served, and the number of tests to be collected. Water Services Providers must provide monthly reports to the applicable Water Services Board, which in turn submits quarterly reports to the national authority. ⁶
2.2	Is there an accessible, clear and simple system of gathering data quickly for problem hotspots, such as wastewater leaks, contamination of water supplies, shortage of workers or supplies, so that services can be replaced quickly?	2	Yes, see 2.1 above. Sampling frequency and test amounts and preventative and remedial measures are based on several factors to assess risk. Water Service Providers ("WSPs") also have "incidence response plans" to address sewer blockages and leakages. ⁷
2.3	Are the local communities kept informed about contamination of local water bodies and supplies?	2	Notification of any unplanned interruption or emergencies that may affect consumers must be given promptly. Presumably, contamination of drinking water would constitute an emergency. ⁸
2.4	Is there a system to check that wastewater is tested before it is released, especially during a Pandemic	2	Yes, although there is no specific provision for a pandemic, WSPs are required to monitor wastewater through a combination of self-monitoring, scheduled monitoring, unscheduled monitoring and demand monitoring. ⁹

1. Normative Content	2. Procedural Guarantees
I. Accessibility	I. Non-discrimination
II. Affordability	II. Access to information
III. Availability	III. Public participation
IV. Quality	IV. Accountability
V. Acceptability	V. Sustainability

Country Analysis

Name of Country: Kenya

+ General Legislation

Member of a regional integration organization	Yes
State Organization	<u>Unitary</u>
Relationship between International and National Law	<u>Pursuant to the Constitution, the general rules of international law shall form part of the laws of Kenya</u>
Supreme Law	<u>Constitution</u>
Independent National Human Rights Institution (NHRI)	Yes
Name of Institution possessing regulation-making authority	<u>Ministry of Water, Sanitation and Irrigation Water Resources Authority (WRA) Water Services Regulatory Board (WASREB)</u>
Popular consultation as part of governing/legislative process	Yes

Water Governance

Right to Water or Sanitation mentioned in Constitution	Yes
A water code or a law specific to water resources	Yes
National Strategy, Policy, Action Plan etc. on Water and Sanitation	Yes
Transboundary Water Resources	Yes
Priorities in the allocation of water for different uses	Yes

Pandemic Resilience Scores (out of 100):

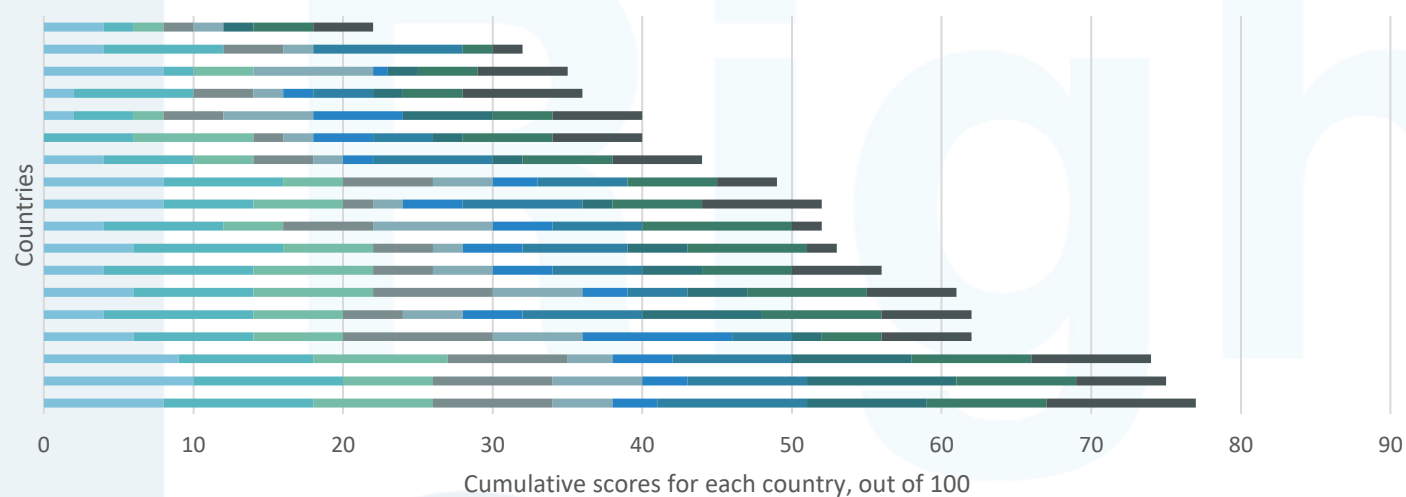
Availability	4
Quality	10
Acceptability	8
Accessibility	4
Affordability	4
Non-Discrimination	4
Access to Information, transparency	6
Participation	4
Accountability	6
Sustainability	6
TOTAL	56%

National Benchmark

- Provides dashboard summary
- Quick check of areas with gaps
- Reference for areas of good practice
- General reference for aspects of water law
- NB – benchmarking needs validation

Results

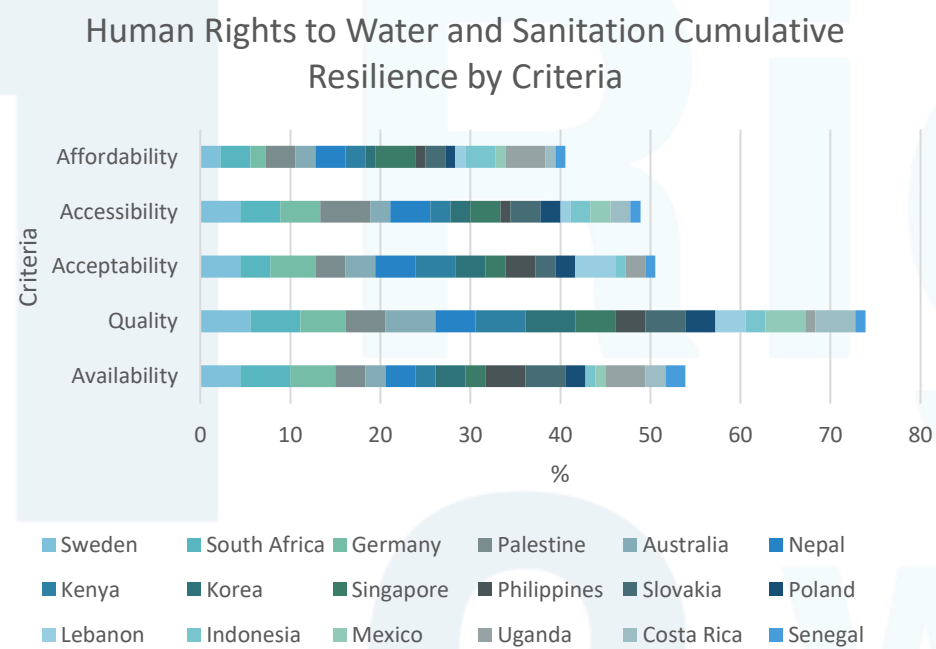
Implementation of Human Rights to Water and Sanitation with respect to Resilience to Pandemics



- Each country has good practices and also gaps in law
- Benchmarking provides comparative studies

Availability Quality Acceptability Accessibility Affordability
Non-Discrimination Access to Information Participation Accountability Sustainability

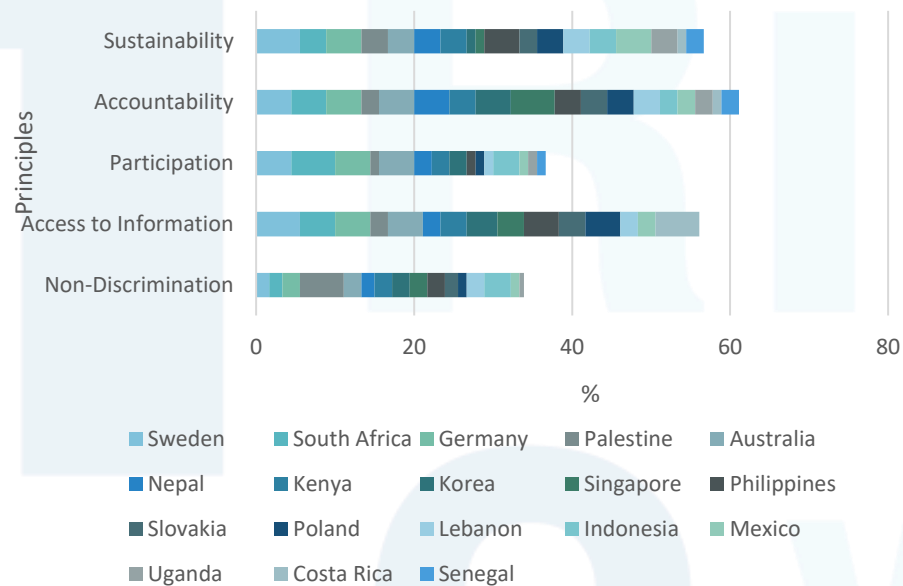
Criteria



- Quality
 - 74% average, but weighted to developed countries, and those in colder climates
- Only 51% implemented on average
 - Large discrepancies
- Clear differences between global north and south*
 - 62% v 40% averages
- Affordability stands out only 40%
 - Challenges for poor

HRBA Principles

Human Rights to Water and Sanitation
Cumulative Resilience by HRBA Principles



- Lack of Participation (37%) and Non-Discrimination (34%) across all 18 countries

- Meaningful participation needed
- Are women included?

- Accountability 61%

- Not consistent
- Need for complaints and redress

- Access to information 56%

- Some scored zero

- Sustainability 57%

- Lack plans for emergencies on this

Sample Results from Costa Rica and Kenya

- Validation of draft results from Water Authorities
- Example Good Practices

Criteria of HRWS	Costa Rica	Kenya
Accessibility	Special considerations to protect indigenous peoples from COVID19 (<i>protocolo_AAII_covid19_17042020</i>)	Directives in place to ensure that access is maintained in emergencies, incl. marginalised groups (<i>ESH Policy – Section 5.4.11</i>)
Affordability	Public service prices maintained in emergencies, and additional subsidies to the poor	A system to ensure tariffs such that in a crisis, vulnerable people can still afford services (<i>Water Services Regulations – Part VII, Par. 51</i>)
Quality	Quality is tested on a regular basis during the emergency, to WHO standards (<i>regulation No 38924-S</i>)	Tested on a regular basis although the frequency of sampling depends on the source of the water, the volume produced, the population served, and the number of tests to be collected. Water Services Providers must provide monthly reports to the applicable Water Services Board, which in turn submits quarterly reports to the national authority (<i>ref. WASREB</i>)

In Summary

- What do we have already?
 - Current data
 - Benchmarking
- What can we do with this bank of information?
 - Guidelines
 - Pilot country recommendations
- Focus on Quality
 - Good practices
 - Develop the human rights-based approach

Countries in each Phase

