

Development of Guideline Advice on Resilience to Pandemics and other Emergencies

First phase review of results, presented by Imanol Aguilera

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Resilience to Pandemics and Emergencies

- In this context, means
 - If the standards of the human rights to water and sanitation are upheld in the national legislation, then the country is better prepared to handle future pandemics
- Assessment based on,
 - Key attributes of the HRWS that are linked to hygiene, control of disease, and health
- Outcomes include
 - Greater priority to continuity of supply, availability for vulnerable people, affordability for all, consideration of handwashing facilities, quality of drinking water, and management of contaminated waste

Methodology

- Structured legal survey across 25 countries by end of 2020
- Based on
 - Elements of the human rights to water and sanitation
 - National and local governance systems
 - Key service providers and public institutions (eg schools, hospitals)
- Providing
 - Benchmark assessments for comparison
 - Reference laws, policies and emergency decrees
 - Ability to assess trends and impacts
 - Encouragement to governments to give more priority to WASH for vulnerable people

Countries in the Survey

- Piloted in Costa Rica and Mexico
- White & Case, international law firm supported research based on HR2W methodology
- Results from Phase 1 completed

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

WHITE
& CASE

Extract from the Resilience Tool

1. Availability

The human right to water means that water must be available in **sufficient quantities** for personal and domestic uses (cooking, drinking, personal and household hygiene), with these uses being prioritised over water uses like agriculture and industry.

According to the World Health Organization ("WHO"), 50 to 100 litres per person per day is an adequate quantity of water to meet all health requirements. This includes (but is not limited to) safe drinking water.

During a pandemic emergency, it becomes even more critical to maintain water and sanitation services on a continual basis and provide facilities for additional handwashing and hygiene.

1.	AVAILABILITY	Yes=2 No=0	Reference text and link
1.1	Is there a vital minimum volume of water guaranteed by local governments (including tank trucks)?		
1.2	Is there a suspension of water supply cuts ordered during the emergency?		
1.3	Is there an emergency plan to source additional or alternative sources of water during the pandemic?		
1.4	Is there an emergency plan for pandemics that includes continuity of sanitation waste and wastewater treatment and collection facilities?		
1.5	Is there an obligation to include soap and handwashing facilities in all public services (e.g. schools, hospitals, transport)?		
TOTAL SCORE for AVAILABILITY			

1. Normative Content

I. Accessibility

II. Affordability

III. Availability

IV. Quality

V. Acceptability

2. Procedural Guarantees

I. Non-discrimination

II. Access to information

III. Public participation

IV. Accountability

V. Sustainability

Country Analysis

Name of Country: Kenya

+ General Legislation

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

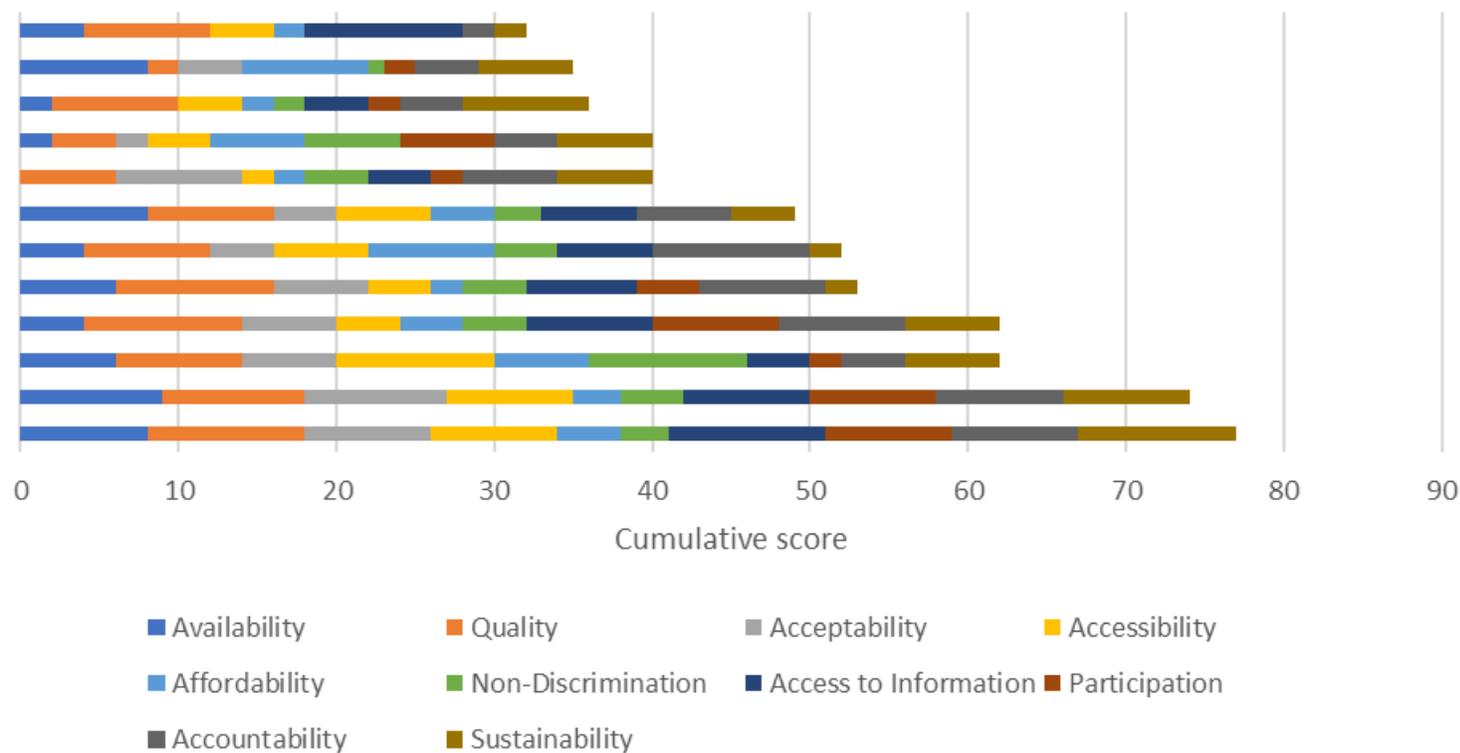
Availability	4
Quality	10
Acceptability	8
Accessibility	4
Affordability	4
Non-Discrimination	4
Access to Information, transparency	6
Participation	4
Accountability	6
Sustainability	6
TOTAL	56%

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

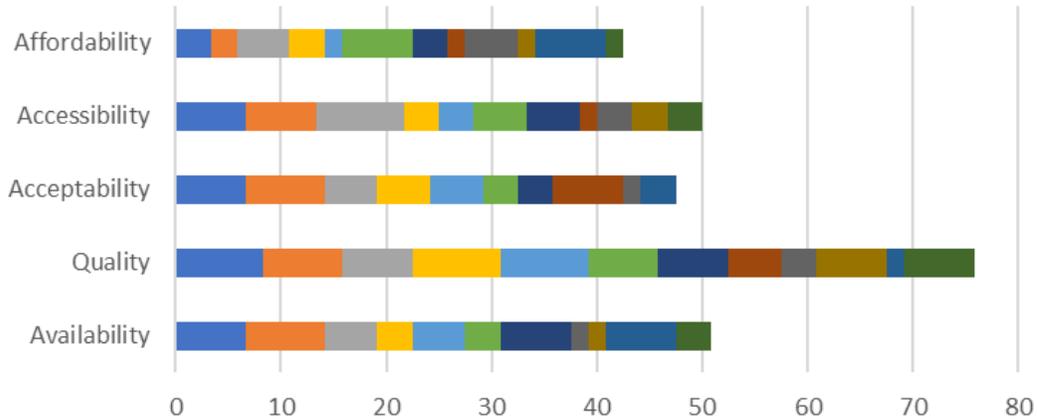
Implementation of Human Rights to Water and Sanitation with respect to Resilience to Pandemics



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

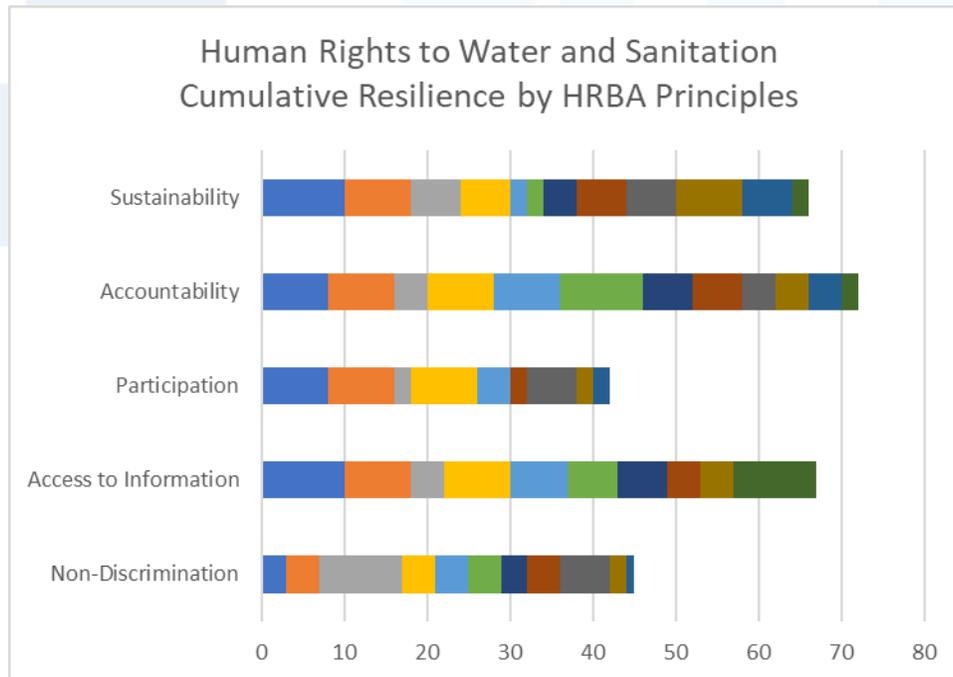
Criteria

Human Rights to Water and Sanitation
Cumulative Resilience by Criteria



- Quality
 - 75% average, but weighted to developed countries, and those in colder climes
- Only 50% implemented on average
 - Again, large discrepancies
- Clear differences between global north and south*
 - 65% v 35% averages
- Affordability stands out
 - Challenges for poor

Principles



- Lack of Participation and Non-Discrimination across all 12 countries
 - Meaningful participation needed
 - Are women included?
- Accountability over 70%
 - Not consistent
 - Need for complaints and redress
- Access to information 68%
 - Some scored zero
- Sustainability
 - 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	Directives in place to ensure that access is maintained in emergencies, incl. marginalised groups
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

In Summary

- Current data on how countries are dealing with COVID19 in Law
- Develop guidelines and recommendations
- Benchmarking useful but sensitive so needs validation
- Work bilaterally with countries to provide immediate feedback
- How can we best use this information to support countries to save lives in the pandemic?