



HUMAN RIGHTS TO WATER AND SANITATION, SDG 6, AND CORPORATE DUE DILIGENCE FOR SUSTAINABILITY

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HIGHLIGHTS FROM MODULE 1 (INVESTMENTS IN THE RIGHTS BASED APPROACH)

- Introduction to SDG6 and human rights
- Challenges to achieving 100% equitable access to water and sanitation
- The responsibilities for business, water authorities, utilities and ministries for protecting human rights to water and sanitation
- The business case for taking a human rights-based approach
- How human rights indicators improve sustainability



LEARNING OUTCOMES

- Explain the human rights to water and sanitation criteria and principles, and relation to SDG 6
- Highlight the relevance of human rights law for institutions
- Understand the concept of corporate due diligence laws using examples
- Interrogate the importance of integrating corporate due diligence laws for water and the environment into national law and policy
- Explore good practices and case studies (Workshop)

ACCESS TO WATER AND SANITATION IN NUMBERS

2 billion people (26% of the global population) lack 'safely managed drinking water services'

3.6 billion people (46% of the global population) lack safely managed sanitation services

494 million people practice open defecation



2.3 billion people (29% of the global population) lack a basic handwashing facility with soap at home

Only 14 countries have high community and user participation for collaborative management and decision-making

WHY DOES THIS MATTER FOR INSTITUTIONS?

Reputational
damage

Loss of productive
hours

Land and water
pollution

Morbidity

Impacts on culture
and wellbeing

Financial
damages/economic
losses

Mortality

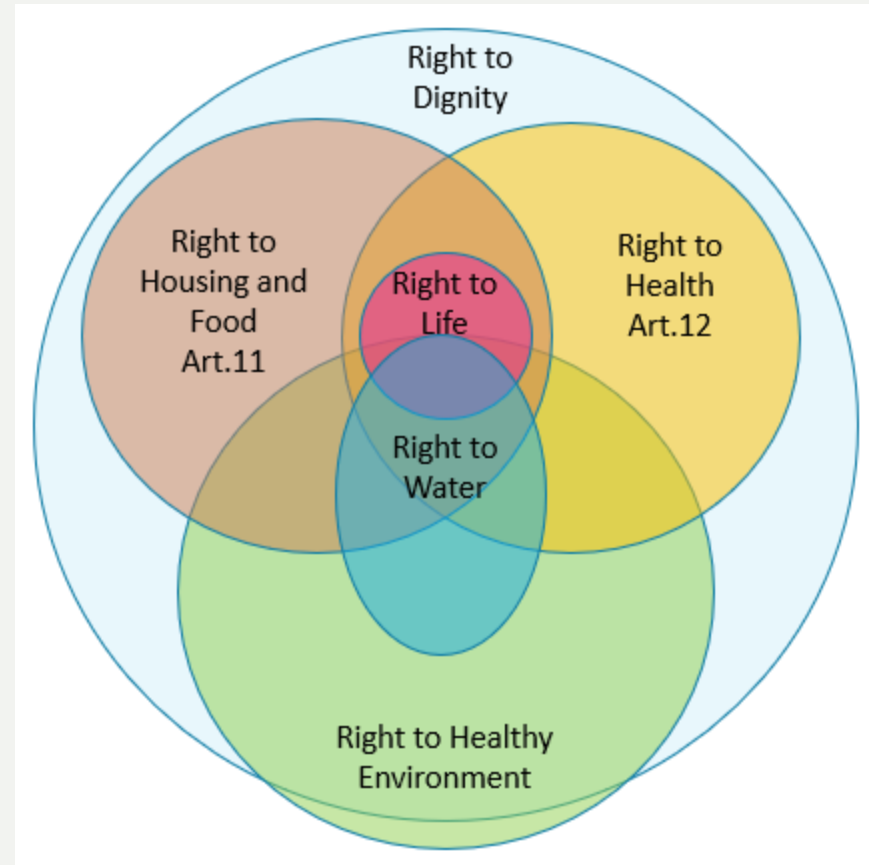
Impacts on GDP

Gender
inequality/gender-
based violence

Social unrest

EVOLUTION OF THE HUMAN RIGHTS TO WATER AND SANITATION (HRWS)

- 2010 - the United Nations General Assembly adopted a resolution recognizing “the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights” (A/RES/64/292)
- 2010 – the Human Rights Council affirmed the recognition of the right and indicated that the right is derived from the right to an adequate standard of living (HRC/RES/15/9)
- 2015 - the human right to sanitation was explicitly recognized as a distinct right by the UN General Assembly (A/RES/70/169)



Source: Loeffen, 2021

OVERVIEW OF THE HUMAN RIGHT TO WATER

“...the human right to safe drinking water entitles everyone, without discrimination, to have access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use...”





OVERVIEW OF THE HUMAN RIGHT TO SANITATION

“...the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity, while reaffirming that both rights are components of the right to an adequate standard of living”

LEGAL BASIS AND FOCUS OF THE HRWS

- Main legal basis is the **International Covenant on Economic, Social and Cultural Rights**
- Component of the right to an **adequate standard of living**
- Essential for the **full enjoyment of life, health, dignity, and all other human rights**
- Over **60 countries** recognize the rights (expressly or implicitly) in constitutions, policies, and laws
- Largely focused on **drinking water, toilets** and **hand washing**

HRWS PRINCIPLES

- **Sufficient:** The World Health Organisation recommends between **50 and 100 litres** of water per person per day to meet basic needs and minimise health concerns.
- **Safe:** WHO, and national and sub-national **Guidelines for drinking-water quality;** technical standards for water and sanitation facilities
- **Acceptable:** Considerations for **culture, gender, lifecycle** and **privacy**.
- **Physically accessible:** WHO recommends having a water source within **1,000 metres** of the home and **30 minutes** as the maximum for collection time.
- **Affordable:** United Nations Development Programme (UNDP) suggests **3%** of household income as the limit for water costs.

LEGAL OBLIGATIONS

- Respect
- Protect
- Fulfill
- Promote

- Progressive realisation (no retrogression)
- Maximum available resources
- Access to information and transparency
- Participation
- Sustainability

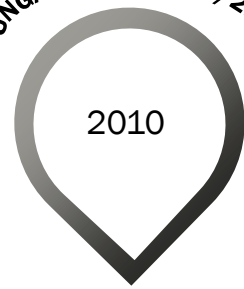
General Comment No. 15



2002

Links the right to water and adequate standard of living. Clarifies the scope and content of the right to water. Explains what is meant by sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses

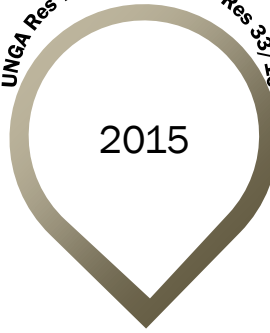
UNGA Resolution 64/292



2010

Entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use. Also at HRC Res 15/9 same year

UNGA Res 70/169 and HRC Res 33/10



2015

Recognizes that the human right to sanitation entitles everyone, without discrimination to have physical and affordable access to sanitation, separate from water

SDG 2030 Agenda

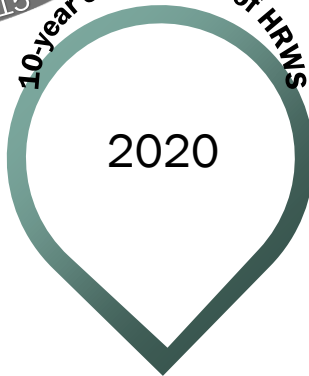


2015

Ensures availability and sustainable management of water and sanitation for all, Targets 6.1 and 6.2

2015

10-year celebration of HRWS



2020

Special Rapporteur Commemoration of the 10-year anniversary: side-event at High Level Political Forum 2020

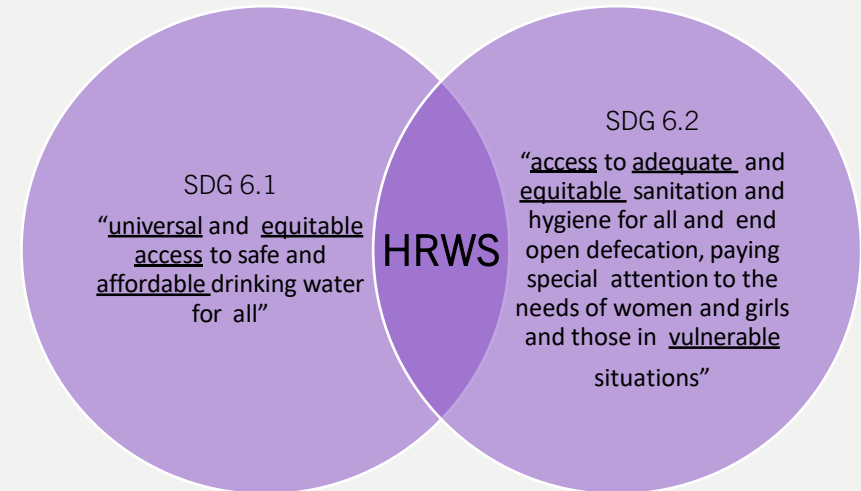
2020



SDG 6 AND THE HUMAN RIGHTS

- SDG 6 captures most of the criteria of the HRWS:
- SDG 6: Ensure **availability** and **sustainable** management of water and sanitation for all
- Target 6.1: By 2030, achieve **universal and equitable access to safe and affordable** drinking water for all
- Target 6.2: By 2030, achieve **access to adequate and equitable** sanitation and hygiene for all and end open defecation, paying special attention to the **needs of women and girls and those in vulnerable situations**

Ensure availability and sustainable



CORPORATE DUE DILIGENCE CONCERNS

The OECD defines due diligence as “the process through which companies identify, prevent and mitigate actual and potential adverse impacts and account for how these impacts are addressed”.

- Quality and impact of products and services on humans and the environment
- Protection of consumers rights
- Employee/industrial relations
- Bribery and corruption
- Diverse business relationships (including State and non-State entities that are linked to businesses: operations, services, products, interests)
- Communicating action to address impacts

INTERNATIONAL FRAMEWORK FOR CORPORATE DUE DILIGENCE

- Mainly soft law, non-binding approaches
- The United Nations Guiding Principles on Business and Human Rights (UNGPs) recognises core principles for corporate due diligence:
 - States duty to respect, protect and fulfil human rights and fundamental freedoms
 - The role of all business enterprises ‘as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights’
 - Access to effective remedies for breach of human rights obligations

MANDATORY CORPORATE DUE DILIGENCE

“There is more and more understanding that the smart mix prescribed by the UN Guiding Principles on Business and Human Rights means that there needs to be legislation in order to reach the stated aims.”

- Heidi Hautala, Vice-President of European Parliament

WHY MANDATE CORPORATE DUE DILIGENCE?

- Despite some improvements in corporate accountability, the world's largest companies are failing to (fully) meet their due diligence obligations:
 - Companies score an average of 20% for human rights due diligence (KnowTheChain benchmarks)
 - No evidence of human rights due diligence in supply chains by 46.2% of companies analysed in the Corporate Human Rights Benchmark
- Advocacy by State actors and non-State actors, particularly civil society, for mandatory and detailed due corporate diligence obligation; growing interest and support from companies and investors for effective corporate due diligence regulation
- Offers legal certainty of business obligations and remove unfair competitive advantage; also provides greater transparency and access to justice for consumers

**RECENT
DEVELOPMENTS AND
EXAMPLES OF CDD
LAWS**

RECENT DEVELOPMENTS

- 2015: United Kingdom Modern Slavery Act was enacted
- 2017: France enacted the Corporate Duty of Vigilance Law (Loi de Vigilance)
- 2019: Australia's Modern Slavery Act
- 2022: EU Parliament voted (504 votes in favour, 79 against and 112 abstaining) on the European Commission [Directive on Corporate Sustainability Due Diligence](#) (CSDDD) covering impacts on human rights, environment and good governance from business operations and their value chains
- 2022: Norwegian Transparency Act entered into force
- 2022: United States Uyghur Forced Labor Prevention Act entered into force
- 2023: German Federal Act on Corporate Due Diligence Obligations in Supply Chains entered into force, enacted in 2021

EUROPE

- Who?
 - Large undertakings regulated by a Member State or established within the EU
 - Publicly listed small and medium-sized undertakings/high-risk small and medium-sized undertakings
 - Large undertakings and publicly listed small and medium-sized undertakings in high risk sectors, which are regulated by a third country and not registered in the EU when they operate in the internal market
- How?
 - Requires companies to integrate and due diligence policy and processes, establish a strategy for identifying and addressing potential and actual impacts.
 - Companies that are subject to the EU Corporate Sustainability Reporting Directive (EU CSRD) must publish their annual due diligence strategy, and companies that are not subject to EU CSRD must publish an annual statement.

UNITED KINGDOM MODERN SLAVERY ACT

- Who?
 - Commercial organisation that is a 'body corporate' or partnership, irrespective of the place of incorporation or formation;
 - Conducting some or all of their operations within the United Kingdom;
 - Supplies goods or services; and
 - Annual turnover of at least £36million
- How?
 - Register on the Modern Slavery Contact Database, for additional resources and guidance on preparing their modern slavery statement
 - Prepare and publish a statement on slavery and human trafficking every financial year
 - Disclose the company's actions during the financial year to prevent modern slavery and human trafficking in their operations or supply chain; also indicate if the company has not taken any action regarding this

FRANCE CORPORATE DUTY OF VIGILANCE LAW

- Who?
 - Any company with registered office in French territory “that employs, at the end of two consecutive financial years, at least five thousand employees within it and its . . . subsidiaries”
 - “... or at ten thousand employees within it and in its direct or indirect subsidiaries whose registered office is located on French territory or abroad”
- How?
 - Requirement to establish and effectively implement a vigilance plan that includes risk mapping; steps implemented for addressing and mitigating risks and preventing violations; procedures for periodic compliance assessment across the company’s value chain; and a method for working with relevant trade unions to identify existing or potential risks.
 - Companies are to monitor and assess the efficiency of their implemented measures.
 - Vigilance plan to be published annually.

AUSTRALIA MODERN SLAVERY ACT

- Who?
 - An entity formed or incorporated or having its central management or control in Australia, with a consolidated revenue of at least \$100 million for the reporting period, if the entity is Australian or carries on business in Australia at any time during the reporting period; the Commonwealth; a Commonwealth corporate entity or company having a consolidated revenue of at least \$100 million for the reporting period; an entity which has volunteered to comply with the Act
- How?
 - Prepare and submit an annual statement on actions taken to avoid and address modern slavery in the company's operations and supply chain: (a) identify the reporting company; (b) describe the company's structure, operations, and supply chains; (c) describe the modern slavery risks within the company's operations, and other businesses it owns or controls; (d) details of due diligence, remediation and other actions taken by the company or other businesses that it owns or controls to ensure that such risks are assessed and addresses; (e) measures by the company to assess the effectiveness of their actions to address modern slavery; (f) outline the consultation process involving other businesses owned or within the control of the reporting company; and (g) include any other relevant information.

NORWEGIAN TRANSPARENCY ACT

- Who and what?
 - Larger enterprises (including those that meet at least two of the following criteria: annual turnover of 70 million NOK minimum; minimum balance of 35 million NOK; average of 50 full time employees or the equivalent in annual work hours) that are resident in Norway and offer goods and services in or outside Norway
 - Larger foreign enterprises offering goods and services in Norway, and liable to tax under Norwegian legislation
- How?
 - Establish responsible business conduct policies
 - Identify and implement initiatives informed by risk prioritisation to avoid and mitigate adverse impacts
 - Monitor implementation and outcomes
 - Be transparent and provide details to consumers or anyone who requests
 - Publish due diligence reports annually on the company's website, by 30th June

US UYGHUR FORCED LABOR PREVENTION ACT

- Who?
 - For US companies sourcing materials from China's Xinjiang region to be able to import their products
 - Particularly companies in these four sectors: clothing, cotton and cotton products, tomatoes, and silica-based products
- How?
 - Implement human rights due diligence across their supply chain to avoid products sourced from Xinjiang region or ensure that products from the region have not been made through forced labour
 - Prepare supply chain traceability documents for the whole supply chain
 - Provide a complete list of workers in their supply chain that are in the region
 - Show evidence that the workers are not subjected to forced labour

GERMAN DUE DILIGENCE ACT (LKSG)

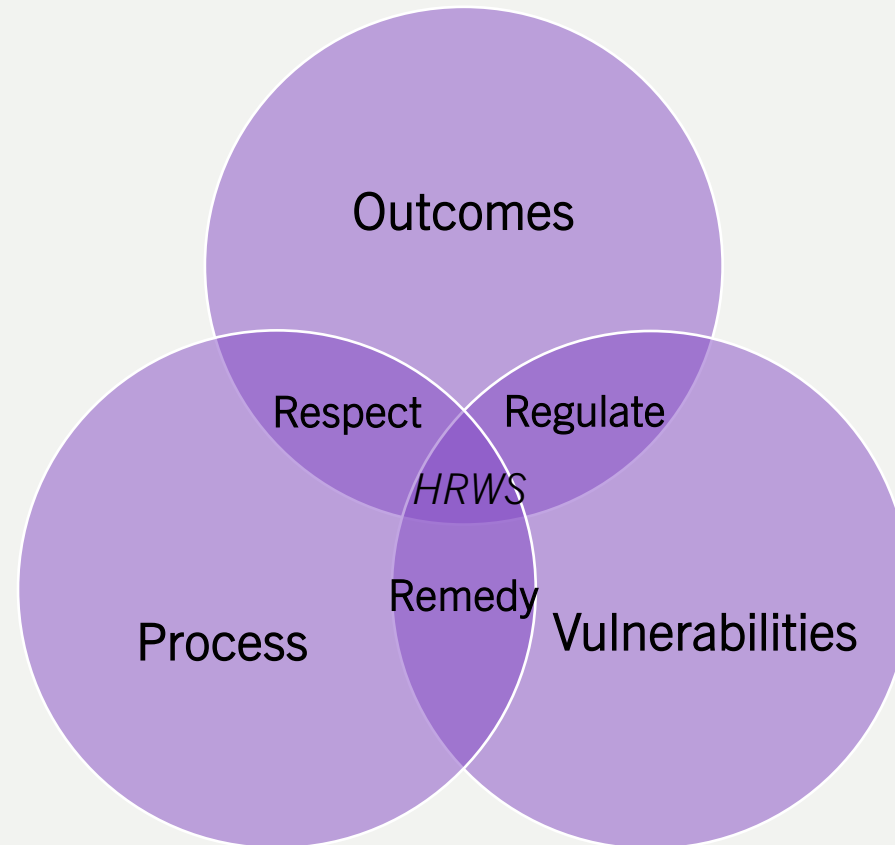
- Who and what?
 - Companies with their headquarters, central administration, registered office or a branch and minimum of 3,000 employees in Germany (minimum of 1,000 employees from 1 January 2024)
 - Covers all products and services offered by eligible companies, and processes and procedures related to the product manufacturing or service delivery, whether carried out by the companies or their direct or indirect suppliers
- How?
 - Requires companies to establish, implement, and update a Risk Management System (RMS), a compliance management system, and due diligence processes to eliminate violations of human rights and environmental standards throughout their supply chain.
 - If a breach occurs, the company (despite establishing preventive measures) is responsible for implementing appropriate measures to stop the breach as soon as possible and can incur serious financial damages (a fine of up to 2% of the yearly global turnover and exclusion from public tender procedures) and reputational damage.
 - Annual reporting of cases of non-compliance and the relevant enforcement measures
 - Non-governmental organizations and trade unions that have been authorised by the affected parties can institute legal action

PROSPECTS AND LIMITATIONS

PROSPECTS OF MANDATORY CORPORATE DUE DILIGENCE

- Legal obligation to prevent, review and report
- Reverses the burden of proof
- Imposes liability for violations
- Regulates both direct operations and the supply chain
- Includes activities in the home country and other jurisdictions

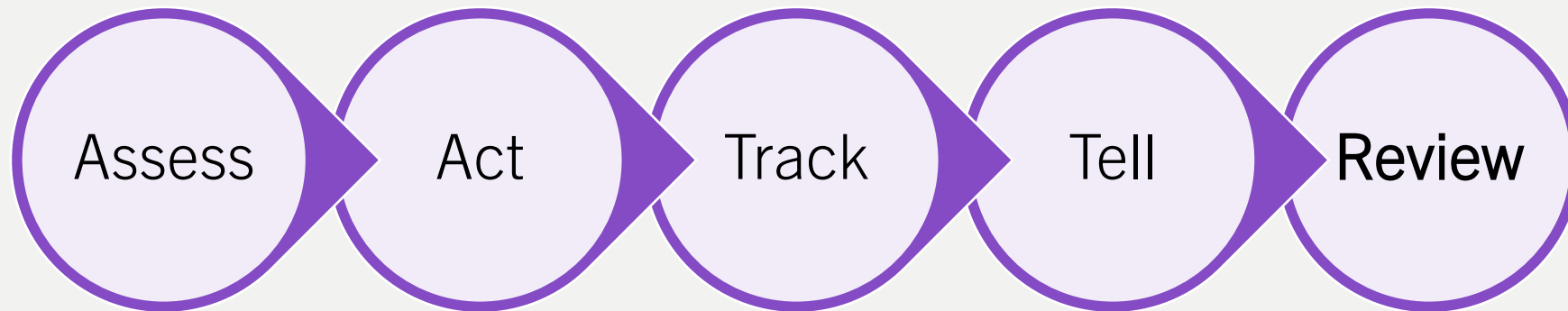
CORPORATE DUE DILIGENCE AND MORE...



ESSENTIAL ELEMENTS OF EFFECTIVE AND EQUITABLE HUMAN RIGHTS AND ENVIRONMENTAL DUE DILIGENCE LEGISLATION (BOYD & KEENE, 2022)

- “... identify, assess, prevent, cease, mitigate and effectively remedy potential and actual adverse impacts...”
- “Be sufficiently harmonized to create a coherent transnational enforcement environment...”
- “Impose due diligence obligations aimed at protecting states’ good governance practices, in addition to protecting human rights and the planet”
- “Strike a balance between overly restrictive and unduly flexible measures”

SUMMARY AND QUESTIONS



WORKSHOP: PRACTICAL APPLICATION AND REFLECTIONS

OTHER USEFUL RESOURCES

- [Business & Human Rights Resource Centre \(business-humanrights.org\)](https://business-humanrights.org)
- González et. al, Debating mandatory Human Rights Due Diligence Legislation and Corporate Liability: A Reality Check (European Coalition for Corporate Justice (ECCJ) and the Corporate Responsibility (CORE) Coalition, Brussels 2020)

THANK YOU

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