

More than a Resource : Water, Business and Human Rights

Comments on IHRB Report – Christian Frutiger, Nestlé S.A.

Stockholm World Water Week, 25 August 2011 – Check against delivery!

Your Excellency, Dear Friends,

Thanks for giving me the opportunity to comment on the IHRB Report. This was supposed to be quiet Stockholm World Water Week and I was thinking of doing the usual nice powerpoints for my interventions. But then we won the Stockholm Industry Water Award – which is absolutely great, and thanks for the numerous congratulations – and the preparation work all of a sudden quadrupled. So, instead of a powerpoint you get a few remarks rapidly written between two preparation sessions.

First, please let me join the words of appreciation of the other speakers to the Institute for Human Rights and Business on this important report and on their work on human rights and business in general. What I like particularly – and I guess you all agree with me – is the positive recognition of the work done by the CEO Water Mandate. As instructed, I will make a few comments about the paper and the about the right to water and sanitation in general, how it relates to our business and how we handle it in our company.

I like the Executive Summary a lot. It is quite unusual, but very original and useful to have the key Q&A directly integrated into the Executive Summary. I have to say though, that it is directed to a fairly human rights versed audience. This is at the same time the main challenge I have throughout the report. It is a little bit like with some of the expert discussions on Water here at World Water Week – the non-specialists immediately wonder: “And what does this mean for me?”. So in the “Executive Q&A” it would have been interesting to restate some of the basics and correct some of the misconceptions on the right to water and sanitation (like daily amount for domestic use, water free or not, privatization, etc.). This along the lines of the Q&A of the Special Rapporteur on the Right to Water and Sanitation, Catarina de Albuquerque or some of the publications of the GiZ on the topic.

The Introduction section of the report puts the water challenge into the global context and stresses the importance of linking water and sanitation. This linkage is an area, where human rights experts, development organizations and companies will have to do a lot of homework. Whilst the right to water is increasingly well understood among companies and all of us here recognize that water in general is critical to our business, this is by far not the case for sanitation. The public health argument is key, but it has to be developed further. We’re all very quick to say that “our company does not have any negative impact on sanitation and we are not in the business of building latrines”. And if former humanitarian relief professionals like me manage to convince a company to go beyond the mere respecting of that right and actually building latrines, the enthusiasm dwindles rapidly when the first top executive does a site visit and by inadvertence steps into a puddle full of the proverbial sh... in well used and thus odorous facility, which proudly sports a brand now sign with the company logo. Anyway, we have some challenges here.

Section two, puts the right to water and sanitation into the “Ruggie context” of the UN Protect, Respect, Remedy Framework and of the Guiding Principles. Whilst I entirely agree with the first part of this section, I have to admit that I struggle with the differences and similarities between a rights-based approach and the corporate responsibility to respect the right to water. It can be confusing. Even though for human rights experts it raises an excellent point, it is highly unlikely that it will be understood within a company.

I'll give you an example: We have just launched a basic human rights online training tool for all our employees: we've done this really fast (we hired the former human rights officer of the IFC to work on this a few months ago) in about 2.5 months, including testing at all levels at headquarters and in the field. How many versions of this tool do you think we wrote? 44, that is 44 simplifications from what originally was a great tool with all its references to international legal instruments, sophisticated risk scenarios, etc. became a tool which actually makes sense to our employees in their daily job.

Now, let's apply that simplification to the right to water and sanitation. Enjoyment of this right can be evaluated against 5 criteria: Availability, quality, acceptability, accessibility and affordability. What do they mean? Within a company, I probably would explain them as water at: right time, right place (accessibility), right quality (quality), right quantity (availability), right consumer preference (acceptability) and right price (affordability). This sounds anodine, but is actually really important, because your employees will understand it immediately.

So, all this to say that I think the rights based/rights specific distinction adds too much complexity. I would recommend we completely separate the notion of "respect the right to water" (corporate responsibility to respect, in Ruggie terms, or do no harm) and the option of where companies can go "beyond respect" on a purely voluntary basis. It's a step by step approach. First "must do", then "can do". This is valid for companies who are water users (Nestlé and the majority of the companies in the CEO Water Mandate); the situation is slightly different for water and sanitation service providers, whose business is to also work on the "fulfilling (realization)" side of the right to water. We just heard about these challenges from Jack Moss.

How does a company like Nestlé ensure that we "respect the right to water". By doing its "human rights due diligence". The IHRB report outlines this in some detail in chapter 3. As an earlier IHRB report entitled The State of Play of Human Rights Due Diligence pointed out, no company has really gone through all the due diligence motions (from policy, impact assessments, integration, tracking to communication). Not on human rights in general and definitely not on water. So there is an urgent need for practical guidance.

What we have done at Nestlé is that – apart from formally recognizing the right to water in our Corporate Business Principles even before this right was recognized by the UN – we are basically approaching water from a Ruggie perspective:

First we want to make sure that in our operations we do not negatively impact on the RTW → RESPECT.

Then we are looking at how and where we can make a difference in helping communities in developing countries to have access to clean drinking water. → BEYOND RESPECT.

RESPECT 1 Water Resources Review (WRR) – Where?

The WRR program is deployed in factories with high water related challenges:

- located in specific water stressed/water scarce regions and/or
- use of large amount of water in their process and/or
- represent a strategic interest in value creation and/or
- possible recorded issues encountered in the local water resources management.

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RESPECT 2 Water Resources Review - Programme

Field survey to assess **sustainability level** related to local water resources management

Rolled out in **88** Nestlé (including NW) sites to date since 2006

5 pillars:

- Quantity
- Quality
- Site Protection
- Regulatory compliance
- Relationships with stakeholders

- to **raise awareness** on water resources at factory level
- to **estimate risk level and identify key issues** in local water resources management
- to set up **specific action plans** toward sustainable water use

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RESPECT 3

Human Rights Due Diligence Process with the Danish Institute for Human Rights (DIHR), including Water. Two year Global Partnership. HHRR gap analysis, impact assessments, integration, policy revision, monitoring, communication.

Starting: Water Stress Index Mapping and WRR Assessments in Agricultural Supply Chain.

And → BEYOND RESPECT

Since 2006, Global Water and Sanitation Initiative – IFRC; LWF/IFAPA Water and Reconciliation since 2008; Aquasure community surface water treatment in Senegal; and many other programmes: → www.nestle.com/csv

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In these, what we might call “BEYOND RESPECT” projects, we generally work together with humanitarian and development organizations, which apply a strict needs-based approach. I entirely agree with the IRHB report that when companies look into community water and sanitation programmes, they should make sure that they are in alignment with good human rights practice. The criteria, which should be observed (non-discrimination, community participation, accountability and transparency) are well described in the report.

But let’s come back to the RESPECTing the RTW part. Companies often immediately jump to the nice “access to water projects in developing countries” bit. I’d strongly urge all of us to focus on the basics first: Do no harm. Sounds simple and easy. Is it?

How do you do a RTW impact assessment? How many of you have done one already? Is it separate or integrated into human rights, social or environment impact assessments. Isn’t there a challenge that a pure RTW assessment may be too limited (for example not taking into account environmental flows) and environmental impact assessments too wide (focusing on availability vs demand numbers

at watershed level, but not focusing on water at right time, place, quality, quantity, preference and price)?

I guess this needs quite some further discussion.

So to repeat and conclude: practical guidance on the implementation of the right to water and sanitation is needed. We welcome and support the initiative of IHRB and the CEO Water Mandate to work on such guidance. First the corporate responsibility to respect the RTW has to be spelled out – due diligence is key, and the main challenge in there are probably meaningful impact assessments. Then, in a second stage some guidance for companies (again, water users, not service providers), who want to go beyond respect into contributing to the fulfillment and realization of the RTW, will be useful. Here, the criteria of non-discrimination, community participation, accountability and transparency outlined in the IHRB report are important.

Thank you very much for your attention.