

An Analysis of the Human Rights-Based Approach to Development

UNICEF's Role in the *Villages Assainis* Program in the Bas-Congo



Tine Destrooper

Localizing Human Rights Working Paper Series No. 2
General Editors: Koen De Feyter and Ellen Desmet
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The Localizing Human Rights Working Paper Series consists of studies on the local relevance of human rights, particularly but not exclusively in non-Western contexts. They form part of a long-term interdisciplinary project, combining insights from law, political and social sciences. The localizing human rights research programme is coordinated by the Law and Development Research Group at the University of Antwerp (Belgium). General Editors of the Series are Professor Koen De Feyter, Chair of International Law at the University of Antwerp, and Dr. Ellen Desmet, University of Antwerp and Ghent University. The full reports are available online on the website of the Law and Development Research Group.

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EXECUTIVE SUMMARY

The starting point of this research project is that human rights need to be locally relevant in order to be useful in addressing the negative effects of globalization at the local level. A 'local infusion' into human rights can occur in two ways, by *interpreting* existing human rights norms in a locally relevant manner, or by *developing* human rights norms in ways that will improve their local relevance¹. For either of these to happen, there needs to be a link between global human rights norms and the daily realities of local rights-holders. One of the ways in which global human rights norms can reach local rights-holders is through the interventions of international organizations which adopt a human rights-based approach to development (HRBAD). To gain a better understanding of how these organizations use human rights norms to shape their interventions, and of whether and how these human rights-based approaches are then implemented, this report analyzes the evolution of the HRBAD in the United Nations system in general and in UNICEF in particular. It also evaluates how the HRBAD is implemented in the Bas-Congo's *Villages Assainis* program which is supported by UNICEF.

Goals, Objectives and Limits of the Study

In this report we seek to examine the extent to which international human rights standards inspire the strategies of UNICEF, as well as the extent to which these strategies are then implemented by UNICEF's country offices. To accomplish this goal, the research sets the following objectives:

- Trace the evolution of the HRBAD at the level of the UN in general and UNICEF in particular;
- Investigate the importance of the HRBAD as a guiding principle for UNICEF today;

¹ This research is embedded in the localizing human rights research line of the Law and Development Research Group at the University of Antwerp, as well as in work package 2 of the Interuniversity Attraction Poles Programme "The Global Challenge of Human Rights Integration: Towards a Users' Perspective" funded by the Belgian Science Policy Office (www.hrintegration.be). This work package focuses on how human rights 'users' navigate through the complex architecture of human rights law and use it to their benefit. The case studies in the work package concentrate on how urban and rural poor communities in the 'Global South' have used human rights in order to protect themselves from perceived threats to their human dignity and how international human rights norm-setters accommodate local concerns.

- Examine whether and how country offices of UNICEF bring the principles of a HRBAD into practice, and which elements of the approach are prioritized on the ground. This is assessed on the basis of a case study of the *Villages Assainis* program in the DRC.
- Probe whether this policy and implementation study can teach us something about the localization of HRBAD in particular and of human rights norms more generally;
- Propose, if relevant, recommendations which facilitate a more effective and more locally relevant conceptualization and operationalization of the HRBAD.

The report this assesses the evolution of the HRBAD in the UN system in general and in UNICEF in particular, and examines the way in which this approach is implemented on the ground on the basis of a case study. The choice to assess the HRBAD in the framework of UNICEF, and not of other international organizations, is inspired by the pioneering role UNICEF has played in the development of this approach. As a front-runner of the HRBAD, UNICEF can be expected to explicitly subscribe to HRBAD principles in its work, and to mainstream these principles in all of its interventions. A policy and implementation study of the HRBAD of UNICEF is therefore insightful to improve our understanding of how international organizations live up to the principles which they themselves propose.

To assess the relevance of the HRBAD on the ground, we conduct a case study of the *Villages Assainis* program in the Bas-Congo. The *Villages Assainis* program is officially a program of the Congolese government, initiated under the auspices of USAID, and currently heavily funded, and de facto managed, by UNICEF. UNICEF's formal adherence to a HRBAD inspires questions about the operationalization and implementation of this approach.

This report is in the first place a study on the evolution and implementation of the HRBAD by UNICEF. We analyze whether a HRBAD has been implemented at all, and how this has happened. Since the report is written as part of the localization research project, we also use our findings on the implementation of a HRBAD to reflect on the potential for localizing human rights understandings in the last chapter, where we assess whether and how the concrete and lived experiences of the rural rights-holders in the *Villages Assainis* program could, in the long run, impact upon the human rights understanding of officers at the country level, and, by extension, on transnational human rights norms.

A limitation lies in the fact that the report is restricted to a single-case study. Therefore further research is needed to probe for the possibility of generalizing on the basis of these findings, and for assessing whether the dynamics which we single

out for UNICEF are also relevant for other international organizations and whether our conclusions on the DRC country office can also shed light on the situation in other country offices of UNICEF.

Human rights and the rights-based approach to development

The human rights-based approach to development became an important conceptual framework for development cooperation in the last decade, especially for UN programs involved in development cooperation. The approach is normatively based on international human rights standards, and seeks to promote and protect these by analyzing inequalities that lie at the heart of development problems. While there are different interpretations and strands of a HRBAD, several principles run through all of them. The UN Common Understanding (UN 2003) as well as academic writing, emphasizes the centrality of participation, accountability, equality, non-discrimination, transparency and empowerment, as well as the strengthening of capacities of duty-bearers and rights-holders as core principles of a HRBAD.

Human rights are at the core of this approach and of this report. The report subscribes to the premises of ordered pluralism and critical legal studies and seeks to conceptualize and research human rights in a manner which allows for the empowerment of local voices and which stresses the need for, openness and contextualization.

Neither the human rights discourse itself nor the HRBAD should be understood as replacing local understandings of human rights or development, but rather as adding a new dimension to them and potentially enriching existing frameworks. For this local anchoring to happen, a process of contextualization and of upstreaming local concerns - within the flexibility permitted under international human rights law – is needed though. This brings us to the theoretical perspective which inspires this report.

Localizing human rights

The question about the implementation of a HRBAD and how it plays out in practice is relevant because it is at the local level that human rights can act as a line of defense, and consequently, it is there that they prove to be vital or illusory (De Feyter 2006). It is thus the local level that should engage with the human rights discourse, and not only the transnational level. This engagement with human rights needs to be a two-way highway (Oré Aguilar 2011: 112). We refer to this bi-directional interaction as the localization of human rights (De Feyter 2006: 5). We can discern a process whereby transnational human rights get translated and used in local struggles, as well as a process whereby local human rights claims are

transformed into global norms - or at least influence their creation or interpretation. This perspective holds that human rights law needs to be developed in accordance with the human rights needs as defined by local rights-holders and supportive users in order to be useful. In order to ensure this inclusivity, certain mechanisms and partners need to be in place to facilitate the sharing of information.

This perspective is used in the last chapter to reflect on what the *Villages Assainis* case can teach us about the potential for localization, both the localization of a HRBAD in particular and the localization of human rights norms in general. We pay specific attention to the existence of mechanisms and networks for ensuring this. This study sheds light on the existence of, and dynamics within, the networks which are crucial for localization. The report allows for a reflection on the potential for upstreaming – practical and strategic – information regarding the HRBAD in particular and human rights norms more in general.

The HRBAD in the UN, UNICEF headquarters and UNICEF's country offices

According to the UN Common Understanding, the principal asset of the HRBAD is that it empowers rights-holders by including them in all stages of the development process (including project formulation and evaluation) and by identifying a duty-bearer who can be held accountable. The proposition in the early 2000s was that a HRBAD should inspire all interventions by UN programs. The importance of the HRBAD for the UN at the level of headquarters can influence how much attention will be paid to the development of human rights-based interventions.

UNICEF has been a front-runner with regards to the HRBAD, by issuing the Executive Directive 98-04 which made the HRBAD a cornerstone of all its actions. We analyze the position and evolution of the HRBAD at the level of UNICEF headquarters on the basis of a document analysis and interviews, focusing on the interpretation of the HRBAD as such, as well as on how its position in the UN system has evolved over time. On the basis of this analysis, we conclude that the HRBAD has mainly received rhetorical attention. While the level of headquarters has developed several guidelines regarding the operationalization of the approach in the early-2000s, these documents were never very concrete and due to UNICEF's decentralized structure, headquarters could not easily impose paradigm shifts upon country offices. This is one of the factors hampering the effective implementation of a HRBAD in practice.

In addition, the HRBAD is increasingly being challenged by alternative and complementary paradigms, such as market-based approaches and community-based approaches in the last decade. These paradigms receive more attention in operational and strategic documents by headquarters than the HRBAD does. Because of this, country offices have not always actively engaged with the HRBAD. They have

no strong incentive to implement it on the ground, and little guidance on how to do so.

The shallow and mere rhetorical commitment to the HRBAD at the level of headquarters, the existence of competing paradigms and the absence of incentives for country offices to implement the HRBAD, help to explain disappointing experiences with this approach and the growing popularity of new paradigms in practice.

Implementing a HRBAD in the Villages Assainis project

The *Villages Assainis* project is a program of the DRC government supported by international donors, amongst others UNICEF. It aims to improve the sanitary conditions in rural and peri-urban villages in the DRC. The project formally adopts a rights-based approach, and therefore constitutes an interesting case to examine the implementation of UNICEF's HRBAD on the ground. At the same time, the *Villages Assainis* program claims to be explicitly community-based and demand-driven. Communities have to launch a request to be included in the program, develop their own planning, assist in the acquisition of materials and the execution of works, and manage the follow-up. This focus on grassroots initiative is purportedly also inspired by the HRBAD's stress on the participation of rights-holders. At the same time, the program seems less concerned with the responsibilities of duty-bearers than with the responsibilities of rights-holders, arguing that the most important problem is a lack of understanding and motivation on the side of the rights-holders rather than low accountability and responsibility on the side of duty-bearers.

The report uses twelve indicators to assess whether a HRBAD is implemented on the ground, and shows that the *Villages Assainis* programs scores poorly on the majority of these indicators, especially with regards to actual implementation. This suggests that the HRBAD is indeed formally subscribed to as a guiding principle, but that this is only a rhetorical engagement, which does not inspire the actual interventions. According to interviewees in UNICEF's country office, there is no credible pressure by headquarters to implement or operationalize a HRBAD.

Because of a perceived ineffectiveness of the HRBAD and a weak prioritization by headquarters, the UNICEF's DRC office is increasingly turning to alternative and complementary paradigms. It is however difficult to claim that the HRBAD has indeed failed, as it has never been genuinely implemented in the *Villages Assainis* program, neither in the initial phase of the program, nor in the initial phase of the revised program that was implemented in 2014.

This absence of attention for the implementation of a HRBAD can also be traced back to the role which the DRC office sees for itself. UNICEF's Division for Water, Sanitation and Hygiene (WaSH) in the DRC argues that the conceptualization and implementation of the program is the responsibility of the DRC government, and that it can, moreover, not impose conditionality with regards to, for example, the adoption of the HRBAD since it is not itself involved in the implementation. This logic of non-actorness is based on the idea that it is UNICEF's responsibility to facilitate the DRC government's ownership over the program, and that it should therefore not take the lead itself. Apart from general questions about accountability which this logic raises, this argumentation is particularly problematic when operating in fragile states where the government does not currently have the capacity to act as a competent program implementer, and expresses no credible concern with human rights. UNICEF seeks to hold government accountable in terms of operational issues, but not in terms of the mainstreaming of human rights concerns. We argue that it is the final responsibility of UNICEF to ensure that interventions in programs which it supports, respect the principles and goals which the organization set itself through the adoption of Executive Directive 98-04, *in casu*, that UNICEF is accountable for the implementation of the principles of a HRBAD in programs which it supports.

In order to ensure that UNICEF's country office can implement the policy adopted by headquarters, we argue that the country office should either develop tools to engage in a more substantial monitoring and follow-up of the government with regards to the approach it adopts. Currently, UNICEF's country office has no means to ensure that those issues which it rhetorically prioritizes are put into practice, because it presents itself as 'only a technical partner'. Additionally, UNICEF could reflect on the possibility of taking on a more active role within the program, notably so in terms of raising awareness on the HRBAD and human rights more generally. The current strategy of rhetorically shifting responsibility creates accountability problems and challenges the meaning of a HRBAD. This is not only the case for UNICEF and its country offices, but also for other donors and international actors which proceed in this manner, i.e. which formally adhere to a HRBAD but present themselves as a technical partner and lie all responsibility for the implementation of a HRBAD with partners who do not necessarily have the means or the ambition to implement this approach.

What this study on the HRBAD says about the potential for localization

The potential to localize human rights depends on the existence of avenues and mechanisms which can facilitate a two-way interaction between local rights-holders and transnational norm-setters. During our analysis of the implementation of a

HRBAD, we also probed for the existence of mechanisms for upstreaming local concerns with regards to the HRBAD. On the basis thereof, we reflect on the potential of local concerns regarding human rights issues reaching the transnational level, by using the structures in place. While UNICEF is not a formal human rights norm-setter at the international level, and while rights-holders might have other means at their disposal to voice their concerns, we consider the provision of upstreaming mechanisms by an important HRBAD-actor like UNICEF as indicative of the interest which this transnational actor has in listening to voices from below.

Moreover, the report posits that even if local human rights understandings do not necessarily need to travel all the way to UNICEF's headquarters to be relevant, UNICEF's country office should possess adequate mechanisms to ensure that local human rights understandings reach the country officers who plan interventions, in order to increase the local relevance of these interventions.

The report shows that a genuine HRBAD has never been implemented in the *Villages Assainis* program and there has been very little explicit attention for the creation of mechanisms for sharing local rights-holders' input regarding the HRBAD. As a consequence, also mechanisms for upstreaming human rights concerns more generally are absent in this case. There are some upstreaming mechanisms, both between the local and the national level and between the national and transnational level, but these mechanisms focus on technical information, and do not allow for, or facilitate, the sharing of information on more strategic or non-technical issues. Moreover, the input which country offices provide to headquarters is not per se based on a broad grassroots consultation, but rather on their own interpretation of the situation.

This is problematic because UNICEF formally adheres to the HRBAD and its principles of participation, empowerment and local ownership, but headquarters does not demand that country offices seek to understand local human rights concerns before planning their interventions, and country offices, as a consequence, in practice fail to do this.

Lessons learnt

A review of the evolution of the HRBAD in UNICEF's operations, and in the *Villages Assainis* program in particular, presents us with several findings regarding the evolution and implementation of this approach.

1. UNICEF was one of the first UN programs to commit to the HRBAD. Headquarters formally continues to support the HRBAD and references to the HRBAD and a human rights discourse more generally feature

regularly in strategic documents issued by UNICEF's headquarters, and, to a lesser extent, in those issued by the WaSH division. As far as formal rhetoric is concerned, human rights are a continuing concern of UNICEF.

2. Since UNICEF's commitment to a HRBAD has been mainly rhetorical, few structural efforts to operationalize the approach have been undertaken by headquarters. Guidelines which have been published by headquarters so far do not offer much concrete advice to country offices. This makes it difficult for headquarters to demand from the country offices the implementation of its own Executive Directive 98-04 and for country offices to do this.
3. Within UNICEF, as well as within other UN programs engaged in development, alternative paradigms - like the SanMark and CATS, i.e. market-based and community-based approaches - are competing with the HRBAD. The broad attention to the operationalization of these approaches suggests a stronger commitment to them than to the HRBAD.
4. The fact that the operational vacuum which exists regarding the HRBAD is filled by CATS and SanMark approaches invites country offices to structure their interventions around the latter two approaches, by for example emphasizing the responsibilities of rights-holders rather than those of duty-bearers. At the same time, the discourse of human rights is often still adhered to because of the formal requirements entailed in Executive Directive 98-04. This tends to hollow out the meaning of human rights and the core of the HRBAD, as these latter approaches reject pay little attention to structural problems.
5. When considering the Villages Assainis program in the DRC we witness how a commitment to the HRBAD has mainly taken place at a discursive level, and how HRBAD principles are largely absent from the operational documents, and even more from interventions.
6. The Villages Assainis project embraces the community-based, market-based and participatory approach more strongly than the HRBAD with regards to practical interventions, and focuses heavily on the responsibility of rights-holders. While the intervention process is allegedly centered around the participation of these rights-holders in every phase of the program (initiation, planning, execution, follow-up), the general design of the program is developed top-down and is non-negotiable. Participation is de facto only required regarding practical matters and rights-holders are not systematically consulted before the start of the program regarding their development priorities.
7. Several elements interfere with the potential for implementing a genuine HRBAD, such as a lagging commitment on the side of UNICEF and contextual factors (for example the remoteness of rights-holders communities, the nature

of the Congolese government, limited budgets, time-pressure, and volatility of staff). In addition, UNICEF's self-defined position as a technical partner of government is important in explaining why a HRBAD is not being implemented. UNICEF has an important voice in setting the priorities of the program, but delegates the implementation to the DRC government without insisting on the human rights-based nature of interventions in a systematic manner. This hands-off approach is justified by UNICEF by referring to the need to foster local ownership by the DRC government.

8. The position of UNICEF as an external actor requires that the organization establishes sound partnerships with local actors to ensure the local relevance of its interventions and to increase local ownership. International actors cannot be expected to have the structures in place to consult local rights-holders directly on their structural needs. Partnerships with organizations of civil society can be a way of ensuring that rights-holders' concerns are taken into account and to facilitate that HRBAD principles – such as the goal of meaningful participation or the empowerment of rights-holders – are adhered to.
9. The adoption of new alternative paradigms for intervention by the country office is based upon the assumption that the HRBAD has failed. This logic is flawed however, since a genuine HRBAD has not been implemented thus far, and can therefore not be said to be inappropriate or irrelevant in the case of the Villages Assainis program.
10. There are some upstreaming mechanisms, both below the national level and between the national and transnational level, but these mechanisms focus on technical and practical information (e.g. UReport). Moreover, the input which country offices provide to headquarters is not per se based on a broad grassroots consultation, but rather on their own assessment of the situation. This focus on technical information can – at least partially – be explained by the need for both the country office and the technical partners to present immediate results under a results-based management paradigm.
11. Those mechanisms for upstreaming information which UNICEF implemented in the context of the Villages Assainis program do not allow for, or facilitate, the sharing of information which could lead to a reformulation of the HRBAD.
12. Since a genuine HRBAD – with its focus on top-down and bottom-up interventions – has never been implemented in this case, there has also not been any explicit attention for the creation of mechanisms for sharing local rights-holders' input, neither on practical nor on programmatic concerns. As a matter of consequence, also sharing input regarding local human rights understandings is hampered. Despite the rhetoric of human rights, there is no

comprehensive attention for this issue on the ground. The choice of UNICEF not to intervene in the implementation of the program, makes it hard to ensure that the approach to which it formally adheres – the HRBAD – is brought into practice.

13. A difficult balancing exercise lies ahead for headquarters, in which it needs to strike a balance between the current focus on decentralization and local decision-making, on the one hand, and providing the outlines within which country offices need to operate in order to speak of a HRBAD, on the other hand. If the goal is to ensure that the HRBAD materializes on the ground, and goes beyond its status of a mere discursive justificatory frame, a minimum guidance of country offices by headquarters is needed.

LIST OF ABBREVIATIONS

CATS	Community Approach to Total Sanitation
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CO	Country Office (UNICEF)
CRC	Convention on the Rights of the Child
CSO	Civil Society Organizations
DfID	Department for International Development (UK)
DRC	Democratic Republic of the Congo
HRBAD	Human Rights-Based Approach to Development
HQ	Headquarters
M&E	Monitoring and Evaluation
MCZ	<i>Médecin Chef de Zone</i> (Local Health Officer)
PHAST	Participatory Hygiene And Sanitation Transformation
PO	Provincial Office (UNICEF)
SanMark	Sanitation Marketing
SNV	<i>Stichting Nederlandse Vrijwilligers</i> (Netherlands Development Organization)
UN	United Nations
UNDP	United Nations Development Fund
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
VA	<i>Villages Assainis</i> (Sanitized Villages)
VEA	<i>Villages & Écoles Assainis</i> (Sanitized Villages and Schools)
WaSH	Water, Sanitation and Hygiene
WSP	Water Safety Plans

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1. INTRODUCTION

This research is embedded in the research line on the Localization of Human Rights, coordinated by the Law and Development research group at the University of Antwerp.² This research program focuses on how ‘users’ navigate through the complex architecture of human rights law and attempt to use it to their benefit. Various case studies concentrate on how urban and rural poor communities in the ‘Global South’ have used human rights in order to protect themselves from perceived threats to their human dignity and how transnational actors can learn from this. De Feyter argues that increasing the relevance of human rights can occur in two ways, by interpreting existing human rights treaty norms in light of the local context, but also by developing these transnational human rights norms in a way that will improve their local effectiveness (De Feyter 2011: 36).

In this report we focus on the human rights-based approach to development (HRBAD) of an important international development actor (UNICEF), and ask

- a) What is the evolution and importance of the HRBAD as a guiding paradigm for the UN in general, and for UNICEF in particular?
- b) How is the HRBAD implemented on the ground in the *Villages Assainis* project?

To answer the first of these two questions, we focus on strategy and assess how the United Nations in general and UNICEF in particular use human rights standards and principles to develop their own policy and paradigms, and how these paradigms have changed over time, thereby paying specific attention to the tools which UNICEF headquarters developed to operationalize certain HRBAD-principles. To answer the second question, we focus on implementation (or non-implementation) of the HRBAD, and assess how UNICEF, which has been one of the driving forces behind the HRBAD, operationalizes and implements this policy on the ground. The case study considered in this report is the ‘*Villages et Écoles Assainis*’ program in the Bas-Congo of the DRC, and more particularly UNICEF’s role therein. The *Villages et Écoles Assainis* program aims to provide sanitary infrastructure and clean drinking water in several DRC villages and rural schools, and is formally inspired by a HRBAD.

² This research has been carried out in the framework of the Interuniversity Attraction Poles Programme “The Global Challenge of Human Rights Integration: Towards a Users’ Perspective”, financed by the Belgian Science Policy Office (BELSPO) (www.hrintegration.be).

Both questions are also relevant for the research on the localization of human rights. We therefore link this report to the other studies in the research project on localization by proposing a third – tentative – research question.

- c) Do human rights-based interventions by UNICEF’s WaSH division create the conditions for localization of the HRBAD in particular and of human rights more generally?

In particular, we probe whether the paradigm of HRBAD has facilitated the development of mechanisms for contextualizing programs and for upstreaming – practical, technical, strategic and human rights-related – local concerns.

For each of the three research questions, we pay specific attention to the role of institutional mechanisms and networks of UNICEF. In addition to shedding light on UNICEF’s commitment to, and implementation of a HRBAD, the present study allows us to discern the willingness and mechanisms which exist to facilitate policy and rights upstreaming.

This discussion inevitably also raises questions about the human rights responsibilities of international organizations in general, and about their potential to upstream local concerns about human rights more particularly. We also assess which elements are needed for transnational actors to credibly adopt a human rights discourse. However, these elements are not at the core of the present study, nor is this a study on the localization of human rights per se. Instead, it is a policy and implementation study which can inspire further research on the localization of human rights³ because, through its focus on mechanisms for information sharing, it sheds light on the potential for a dialectic relationship between the local and the global level, and thus on the potential for reverse standard-setting, i.e. the drafting of human rights proposals based on realities on the ground rather than conceiving of them top-down (Vandenhole 2012)⁴. The eventual aim of the present report is to

³ A legal-anthropological study by Sundi (forthcoming) elaborates in more detail on how local sensitivities and priorities shape the interpretation of global human rights norms which they are presented with, and how both the local culture and the global norms may interact and be transformed along the way. In the present study in contrast, we do not engage in a structural manner with local understandings of human rights, but instead focus on the HRBAD, how it is implemented, and how this impacts upon rights-holders attitude regarding rights-based interventions.

⁴ Studies on the specific topic of localization ask three questions a) how local actors appropriate international norms, b) whether and how there are opportunities for the local level to provide input to the transnational level, c) what the impact is of local human rights practices on the development of transnational human rights norms (see, for example, De Feyter et al 2011).

gain a better understanding of the potential for two-way interaction on human rights in the framework of a human rights-based approach to development.

This study of the evolution and implementation of a HRBAD is timely and has both academic and policy relevance. Most studies on the implementation of the HRBAD by UNICEF so far have been carried out or commanded by UNICEF itself, resulting in a disproportionate concern with quantifiable parameters and a top-down bias (for an exception, see UNICEF 2012a). Also the fact that alternative paradigms are increasingly challenging the HRBAD as an organizing principle for interventions, triggers the question about what the impact thereof is on the relevance of the HRBAD for UNICEF interventions, and makes the present study timely. Our specific focus on whether the HRBAD is implemented with attention for the local context also has considerable policy and academic relevance because a) the contextualization of interventions can lead to more durable results, and b), the issue of upstreaming local concerns has been under-studied to date, both by policy-makers and in academia, and our findings can thus shed a new light on the process of standard-setting and program implementation.

The report is organized as follows. The next chapter presents the goals, objectives, ethical considerations and research method of the study as well as its limitations, and the position of this study in the broader research project. In chapter three we introduce the theoretical background of this research. Here we elaborate on the human rights-based approaches to development, the schools of thought on human rights which inspire our analysis, and the perspective of localizing human rights. The first two elements are needed to research the two core research questions. The latter perspective inspires the discussion of the third tentative research question. In the fourth chapter, we analyze the first research question, namely the evolution and importance of the HRBAD in the UN in general, and within UNICEF – headquarters and country offices – more specifically. This chapter includes a discussion on how genuine UNICEF's commitment to a HRBAD has been over time, and which competing intervention paradigms exist within the UNICEF WaSH division. In the next chapter, we address the second core research question, which is how and whether the HRBAD is implemented in the case of the *Villages Assainis* program, and what the impact thereof is on rights-holders. In the sixth chapter, we use our empirical study to engage in a reflection about the third tentative research question, namely what this study on the evolution and implementation of the HRBAD can teach us about the potential for localizing a HRBAD in particular and for localizing human rights norms in general. In this chapter, we pay specific attention to whether and how a HRBAD can encourage the sharing of local input amongst involved actors, and whether and how international organizations can contribute to processes of localization. The case of

the *Villages Assainis* program is used to explore these issues, and we conclude on the scope for localization which can be expected within the current structures. In the conclusion to the report we touch upon several issues regarding the deficient implementation of HRBAD policies, and seek to identify causes as well as possible remedies for this situation. Lastly, we discuss the relevance of this study for the broader Localizing Human Rights research project.

2. GOAL, OBJECTIVES AND RESEARCH METHOD

2.1. RESEARCH GOAL AND OBJECTIVES

The *goal* of this research is to ascertain whether or not the HRBAD can today be seen as a core organizing principle for UNICEF and how this approach is then implemented on the ground. On the basis of this analysis, we hypothesize about the potential for localizing human rights-based approaches in particular and human rights concerns in general within the setting of the *Villages Assainis* project and within UNICEF's WaSH division.

In order to accomplish this goal the research has set the following *objectives*:

- Trace the evolution of the HRBAD at the level of the UN in general and UNICEF in particular;
- Investigate the importance of the HRBAD as a guiding principle for UNICEF today;
- Examine whether and how country offices of UNICEF bring the principles of a HRBAD into practice, and which elements of the approach are prioritized on the ground. This is assessed on the basis of a case study of the *Villages Assainis* program in the DRC.
- Probe whether this policy and implementation study can teach us something about the localization of HRBAD in particular and of human rights norms more generally;
- Propose, if relevant, recommendations which facilitate a more effective and more locally relevant conceptualization and operationalization of the HRBAD.

2.2. RESEARCH METHOD

The fieldwork for this report was carried out on the basis of a mixed-method case study research design. We assessed both the importance of the HRBAD for the UN and for UNICEF and the implementation of this approach by UNICEF's WaSH division in the *Villages Assainis* project. To do so, we combined bottom-up and top-down elements in our research design, rely on qualitative methods, which we use to analyze various types of sources, including interviews, focus groups and planning and policy documents. This approach was chosen over a desk study for several reasons. Firstly, a mixed method case-study research design best captures the multi-layeredness of the theoretical framework which we use and of the reality on the

ground (Ore Aguilar 2011). Through our interdisciplinary research design, we account for, and engage with, the complexity of local rights-holders' reality in more progressive ways, and therefore ask questions which go beyond a mere documentary or a mere quantitative analysis, and which require the invocation of multiple data-sources and methods of data-analysis. Since we seek a more nuanced understanding of the implementation of the HRBAD than the more common quantitative evaluations, and a more bottom-up understanding of the policy than a legal evaluation would allow for, a mixed-method case study based on process tracing is the most relevant research design for our study. This design also allows us to take into consideration important contextual variables and changes over time, since the research was carried out at the time when the program moved from phase I into phase II. In addition, our research design allows us to account for grassroots and bottom-up processes, which are a key concern in our study. Assessing the potential for contextualizing and upstreaming human rights norms requires explicit attention for dynamics at the grassroots level and for the mechanisms and networks which are installed by transnational actors to facilitate the adequate implementation of a HRBAD. These mechanisms are not always formalized. Therefore a research design is needed which can both deal with the complexity of social reality on the one hand and with the institutional embedding of the HRBAD on the other hand.

Lastly, using multiple sources of information, allows for the triangulation and crystallization of information (Richardson 2000: 934, Ellingson 2009). Crystallization is a more complex process than triangulation, whereby the researcher borrows from several disciplines – in this case political science, public administration, legal studies and anthropology – and uses a variety of methods and perspectives to arrive at a deepened understanding of social reality. The goal is to better understand the empirical reality through the subjectivities of interviewees, and to not only rely on legal or policy documents. In our case, contrasting information coming from different actors facilitated a richer understanding of the implementation process than a mere document analysis would allow for. We thus combined a focus on rights-holders' experiences with a focus on the institutional dimension of a human rights-based approach.

Our analytical strategy reflects the interdisciplinary nature of the research project, which is also reflected in the composition of the research team. Researchers have a background in various academic disciplines – legal studies, social and political science and gender studies – and are experienced in different methodologies, which

facilitates the adequate application of this interdisciplinary mixed-method approach (See Flick 2007)⁵.

2.2.1. DATA-COLLECTION

Analyzing the evolution and implementation of a human rights-based program in a comprehensive manner is not a straightforward task. The various actors involved have different opinions regarding what constitutes success and failure and regarding the consistency and adequacy of their interventions. The data-collection methods for this study were selected in line with the goals, objectives and research questions, and consist of qualitative document analysis, interactive interviewing, focus group discussions, and direct observation. This research design allowed us to tailor the methods to the context on the one hand, and to the needs of the research on the other hand.

DOCUMENT ANALYSIS

Before consulting UNICEF staff, rights-holders or duty-bearers on their experience with the HRBAD, we examined the status of the HRBAD in the documents issued by various UN programs, UNICEF headquarters (WaSH division) and the UNICEF country office of the DRC (WaSH division). This allowed us to assess the prominence of the HRBAD in conceptual and strategic documents issued by headquarters as well as in operational documents issued by the country office⁶. We documented the evolution and interpretation of the HRBAD, as well as any provisions for upstreaming local concerns or learning lessons from the grassroots level⁷. Our analysis of documents

⁵ The case study on the DRC was carried out by Dr. Tine Destrooper and Drs. Pascal Sundi, with the assistance of several research assistants, and was coordinated by Dr. Ellen Desmet and Prof. Koen De Feyter.

⁶ Strategic documents for the UN included the UN Common Understanding 2003, the UNDP working guidelines 1998, 2000, 2003, 2006b, the UNFPA toolkit 2010, and the OHCHR manual 2006. Strategic documents issued by the UNICEF headquarters included UNICEF 1998, 2005, 2008, 2011. Operational documents issued by the UNICEF DRC country office included the medium-term strategic plan, the situation analysis, the agreement between UNICEF and the DRC, press releases by UNICEF DRC's WaSH division, the PPP manual, programming info, and other project documents. In addition to this, we made use of existing analyses of UNICEF's human rights-based approach, such as the global evaluation of the application of a human rights-based approach to UNICEF programming (UNICEF 2012) carried out by Universalia, and the Action Research (WaSH DRC 2013h-q) since these reports offer a more complex understanding of UNICEF's priorities than only policy documents.

⁷ For the latter, we used a set of indicators listed in appendix 1. While these indicators facilitated a focused analysis, they also allowed for the analytical openness which is needed to capture the complexity of the issue.

was in the first place aimed at assessing the importance of the HRBAD for UNICEF's interventions.

In addition to these program documents, the documentary analysis considered the national and international legal framework regarding human rights-based approaches to development, and regarding the right to water and sanitation in particular. We paid specific attention to how human rights treaties ratified by the DRC are implemented at the national level, for example through the recently adopted 'Code de l'eau', which governs the domain of water provision, a core element of the *Villages Assainis* Program. These legal provisions were taken into account in order to gain a firmer understanding of the legal environment within which interventions take place and to analyze whether these legal provisions should be considered an enabling factor, or, on the contrary, as a factor hampering the implementation of a HRBAD.

INTERVIEWS AND FOCUS GROUP DISCUSSIONS

A mere document analysis would not allow for a comprehensive assessment of the extent to which a HRBAD is implemented on the ground. While strategic and operational documents shed light on UNICEF's priorities and principles, it is only by triangulating this documentary evidence with qualitative interviews with project officers and discussions with stakeholders that one can grasp the complex reality of the project development, implementation and evaluation. For this reason, the document analysis was complemented with semi-structured qualitative interviews with UNICEF staff members from headquarters⁸ and from the provincial and country office in the DRC, with DRC government officials at several levels, with project partners (such as the Dutch technical cooperation SNV) and with local rights-holders. The WaSH division of the UNICEF country office is a unit of about ten people, each working on a thematic focus (government relations, technical development, communication, etc.). The provincial WaSH division is much smaller, which means that one officer is usually responsible for different dimensions of the project. Officers had different background, but invariably were third-country nationals, and there was a high turnover of staff, with most officers not having been involved in the project for more than five years.

Interviews with UNICEF officers at the country office probed for the importance of the HRBAD in daily operations, as well as for the existence of (in)formal upstream

⁸ Further interviews with headquarters are being carried out, due to the problem of access to headquarters during the first round of interviews, which only allowed us to talk to a WaSH program officer and two innovation officers.

and downstream feedback mechanisms. We traced why certain programmatic decisions were taken, i.e. if these were inspired by the HRBAD. In addition we gauged whether the program which was being implemented, was rooted in the realities of local rights-holders. The goal of the interviews was thus twofold, firstly to assess whether a HRBAD was an explicit inspiration for interventions in the *Villages Assainis* program, and, secondly, to gain a better understanding of potential contextualization and upstreaming efforts which the country office of UNICEF was undertaking to make its interventions more locally relevant.

To assess the users' perspective, nine villages were selected in the three districts of the Bas-Congo to examine the impact of the HRBAD-paradigm on the ground. This selection of cases ensured the representation of each of the administrative zones of the Bas-Congo, as well as including villages in various stages of the programming cycle. Villages were selected in collaboration with the Human Rights Research Center at the Université Kongo, in order to ensure a diverse set of actors as well as accessibility of the villages⁹.

Interviews with rights-holders were used to focus on specific aspects regarding the implementation of a HRBAD, whereas focus groups allowed us to tap into existing dynamics and gave us a better idea about both structure and agency in the villages and entailed the advantages of an economy of scale (for an overview of interviews, please refer to Appendix 7). For the practical organization of the interviews and focus group discussions, we relied on the Sage Qualitative Research Kit (Kvale 2007, Barbour 2007). Focus groups improved our understanding of the priorities and demands on the side of local rights-holders. This permitted an analysis of the extent to which UNICEF took these issues into account when evaluating and adjusting its program over time.

Using these interactive research methods, moreover allowed us to systematically solicit feedback from interviewees and further refine our analysis (Richardson 2000). By involving participants as co-analysts in this manner, the research design aimed to arrive at a critical bottom-up understanding of a human rights-based approach (Ellingson 2009).

⁹ The University of Antwerp has a Memorandum of Understanding with the Université Kongo. Université Kongo is a partner in the broader research project on Localizing Human Rights and ensures the local embedding of the project.

DIRECT OBSERVATION

For the direct observation we relied on insights from anthropology and ethnography, as well as on our local partners, such as the Université Kongo, to make sense of observations in a context-specific manner.

The combination of document analysis, focus groups, interviews and direct observation allowed us to also gain a firmer understanding of contextual factors, to capture multiple voices, and to look at the same issue from various angles, thus accounting for the different realities on the ground. This produced additional and complementary insights to the findings of the document analysis.

2.2.2. DATA-ANALYSIS

We used qualitative and critical discourse analysis to interpret our materials (Van Dijk 1993, Wodak & Meyer 2001), and organized the analysis around twelve indicators derived from the UN Statement of Common Understanding on the HRBAD. Assessing the extent to which each of these parameters is present in the program, allowed us to gain a nuanced understanding of whether and how the HRBAD is implemented in this case, and of which elements are implemented or not. These parameters are:

- a) The program seeks to further human rights;
- b) The program uses human rights as a guiding principle in all interventions;
- c) The program repoliticizes development through a focus on state responsibility;
- d) The program seeks to capacitate the state to meet its obligations;
- e) The program seeks to capacitate local rights-holders to claim their rights;
- f) The program sees participation both as a means and a goal;
- g) The program sees accountability and rule of law as its fundamentals;
- h) The program promotes equality, non-discrimination and inclusion of all stakeholders;
- i) The program facilitates local ownership and locally owned-processes;
- j) The program uses empowering methods;
- k) The program seeks to develop and sustain partnerships in a structural manner;
- l) The program ensures a synergy between bottom-up and top-down approaches.

We argue that all these elements should be present – not only in strategic and operational documents but also in practice – to speak of a genuine HRBAD¹⁰. In the

¹⁰ See also appendix 1 for an overview of indicators regarding the issue of localization.

analysis of the HRBAD, we therefore analyze for each of these twelve dimensions (1) whether they are present in the discourse of UNICEF, (2) whether there are mechanisms for their implementation, and (3) whether this implementation actually takes place and is in line with the spirit of a HRBAD. Mere discursive attention for one of the dimensions is considered significant, but not in itself sufficient to speak of a HRBAD. To call the approach a genuine HRBAD, the conceptualization and actual implementation of mechanisms is needed.

2.3. SELECTION OF THE CASE

The choice to focus on UNICEF was inspired by the pioneering role which the organization played in developing the HRBAD, as well as by the fact that new paradigms and priorities are emerging in this organization, which challenge the HRBAD. This makes it relevant to ask what the current status of the HRBAD is for UNICEF, and how this influences its interventions. The program was chosen after consultation with the Université Kongo, because of the fact that the program existed before UNICEF entered the scene as a donor and technical partner, and because UNICEF has been active in the program since 2006. The former element allows us to assess the impact of UNICEF and its HRBAD on the *Village Assainis* program. The latter element makes it possible to evaluate changes over time, and in particular, to probe for the extent to which the program has been adapted to the local context, and has evolved in response to lessons learnt.

2.4. VALIDITY, RELIABILITY, ETHICAL CONSIDERATIONS, LIMITATIONS

2.4.1. VALIDITY AND RELIABILITY

Since this is a qualitative case study, there are some issues regarding generalizability and external validity which cannot be overcome within the confines of one report. The findings of this report cannot as such be generalized to other contexts in the same way one would do when conducting a large-n quantitative research, nor is this the goal of the research. However, our case study allows for an in-depth understanding and can shed light on underlying dynamics of HRBAD implementation, which may also be relevant for other cases.

We sought to increase internal and construct validity by using a pre-determined set of indicators, clearly defined research questions, and a clear analytical strategy. The use of operational indicators in our qualitative discourse analysis avoids subjective and *ad hoc* data-collection and interpretation. By making these indicators explicit, by using multiple sources, by constructing chains of evidence and by involving local stakeholders in the interpretations process, we establish clearly a) what the place of

the HRBAD is in UNICEF's strategy and b) whether and how a HRBAD is used in the specific case of the program (for an elaboration, see Yin 2003 and Peters 1998).

The reliability of the study too, is increased by specifying the exact methods of data collection and analysis. This enables the hypothetical repetition of this case study with the same results. Moreover, by meticulously documenting and archiving the case study findings and by distinguishing between raw data and the interpretations of the researcher, we enable future use of the data (see Rapley 2007).

2.4.2. ETHICAL CONSIDERATIONS

Advice from the Ethical Commission from the University of Antwerp was sought before starting the fieldwork, and clearance was obtained. We paid attention to ensuring confidentiality in order to protect rights-holders who participated in interviews and focus groups, and clearly specified at the beginning of each interview our own affiliation and goal – thereby also underlining that we could not propose solutions to existing problems – and the fact that interviewees at all times had the right to opt out or ask for the registration device to be switched off.

We also refrained from referring to UNICEF officials at higher levels in an identifiable manner, for reasons of privacy, but also because it is our aim to critically analyze organizational dynamics, and individual opinions regarding sensitive issues may not be appreciated 'within' the organization. To exclude any potential negative effects of interviewees' participation in our research, confidentiality was ensured. All interviewees are identified in this report by the codes listed in Appendix 7.

The research results will be shared with UNICEF officers who participated in this study, and we will invite them to spread these results further in their network, so as to increase the relevance of our findings. By collaborating with the researchers who are carrying out a follow-up study (cf. Sundi), we also seek to share findings directly with rights-holders.

2.4.3. LIMITATIONS

The empirical section of the report focuses on the evolution and implementation of human-rights based programs. This is in itself a relevant topic, but also inspires a forthcoming study which deals more explicitly with the issue of localizing human rights. The question of localization is thus only touched upon in an indirect manner, meaning that we cannot make any definite claims grounded in empirical observations regarding the issue of localization. Since this study is on the HRBAD as implemented by an international actor, rather than on human rights and how local

rights-holders formulate claims about these, our study does not readily fit the localization model proposed by Oré Aguilar (2011: 131)¹¹.

The research will also not perform a thorough legal analysis of the human rights treaties at the international level. Its objective is not to assess the content of these treaties, but mainly to see how UNICEF uses these as building blocks. It is equally beyond the scope of this research to assess whether or not the program has led to legal changes in the DRC.

The choice to proceed through an implementation study of UNICEF's HRBAD, was primarily made because of the pioneering role which UNICEF has played in the development of this approach. Not all levels of UNICEF are discussed though. In particular, the Regional Office is not dealt with in great detail, due to practical and logistical constraints, even if it could potentially play a role as an intermediary for contextualizing and upstreaming human rights concerns. We argue though that, in this case, it is possible to study the mechanisms which are provided for contextualization and upstreaming by focusing on the efforts at the global, national and sub-national level.

¹¹ In this phased model, step 1 entails an analysis of the factors that have led a local community to formulate a human rights claim. Step 2 describes how claims get translated into action and how local communities engage into broader networks. Step 3 highlights the institutional response that is triggered by the action undertaken, and step 4 aims at assessing the local and global impact of this institutional response. Track 4(a) discusses whether the remedies and reparations afforded were recognized as relevant by the local communities. Track 4(b) focuses on the 'return to the global', or the impact that local struggles may have on the international human rights architecture. Step 5 describes the devolution process whereby one assesses whether the enhanced global norms have relevance at the local level.

3. THEORETICAL FRAMEWORK

The central concern of this report is twofold and relates to the evolution and position of the HRBAD in the UNICEF system in general, and to its implementation in the *Villages Assainis* case in particular. Additionally, we ask whether this program facilitates the installation of localization processes, i.e. contextualization of the program and meaningful upstreaming of local input. In order to frame the two core research questions, the first two sections of this chapter discuss the conceptual and theoretical framework upon which the study is based. Firstly, we elaborate on the principles underlying a human rights-based approach to development. Then, two perspectives on human rights are discussed which are directly relevant to the study of a HRBAD. Their relevance for studying the implementation of a HRBAD is highlighted. In the last section to this chapter, we present the framework of localization, which inspires the discussion of the third - tentative - research question in chapter six.

3.1 HUMAN RIGHTS-BASED APPROACHES TO DEVELOPMENT (HRBAD)

The human rights-based approach to development became an important conceptual framework to development cooperation in the last decade. It is “normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyze inequalities that lie at the heart of development problems and to redress discriminatory practices and unjust distributions of power that impede development and progress” (OHCHR 2006: 15).

While there are different interpretations and strands of a HRBAD, several principles run through all of them¹². The UN Common Understanding (UN 2003) underlines the central role of participation, accountability, equality, non-discrimination, transparency and empowerment as core principles of a HRBAD. A HRBAD, according to this document, acknowledges people as key actors in their own development, rather than seeing them as passive recipients of commodities and services. This is in line with the premises of critical legal studies, as we will show below. Moreover, the UN Common Understanding states that rights-holders’ participation in the development process is both a means and a goal, and that strategies should be empowering and include all stakeholders. The goal should be the installation of

¹² For a discussion of the difference between the interpretation of IO’s, bilateral agencies and INGOs, see Nyamu-Musembi and Cornwall 2004.

locally-owned processes, through, amongst others, the simultaneous use of bottom-up and top-down approaches, and the development of sustainable partnerships. What is also implicit in the UN Statement of Common Understanding (UN 2003), is the idea that a HRBAD calls the state to account and repoliticizes development by placing the state at the center of responsibility. This idea is shared by many scholars of development studies, and is crucial for our research (see, for example, Gready 2008).

All these HRBAD principles are explicitly mentioned in the Common Understanding and can be evaluated in their own right, to gauge the extent to which UNICEF – as one of the first UN agencies to actively engage with a HRBAD – actually manages to implement this approach in its own day-to-day operations, or in other words, to analyze the extent to which UNICEF interventions indeed comply with these HRBAD principles and are not mere needs-based and emergency-relief interventions.

Moreover, the UN Common Understanding suggests that a HRBAD need not be seen as replacing local understandings of development, but rather as adding a new dimension to them and potentially enriching the frameworks of local actors. Yet, precisely this advantage of human rights-based approaches also poses one of the main challenges of such an approach, i.e. while the universality of the human rights discourse creates legitimacy it also requires the translation of these universal principles to fit local realities (De Feyter 2006, Merry 2006). A process of contextualization and upstreaming local concerns - within the flexibility permitted under international human rights law - can ensure that human rights standards take due account of local realities, subjective perceptions, resource constraints, and cultural and social factors (Darrow and Tomas 2005: 142). This is one of the main challenges of a HRBAD.

3.2 PERSPECTIVES ON HUMAN RIGHTS

When studying the implementation of a human rights-based approach, it is relevant to also discuss the theoretical frameworks underlying this analysis. The two schools which influence our analysis of the HRBAD most significantly, are ordered pluralism and critical legal studies. The report subscribes to *ordered pluralism's* premise that imprecision, uncertainty and instability characterize the international legal realm, and that – much rather than being a normative statement – this uncertainty and volatility are a reality, which requires dynamic strategies and coping mechanisms, as well as a new type of coordination between different horizontal and vertical levels (Delmas-Marty 2006). This process of coordination should not be interpreted as a move towards unification and universalism though. A universalist vision of

international human rights law which responds to normative conflict by seeking to erase normative difference altogether is both unfeasible and undesirable according to ordered pluralism (Baumgaertel et al 2014). Applied to this research, this theory suggests that the use of a universal paradigm like the HRBAD, should not per se lead to the introduction of global unitary concepts into local contexts which have their own specificities, but that, instead it is possible for programs which proceed on the basis of a HRBAD to acknowledge the need for dynamic strategies. This is also implicitly inscribed in the UN Common Understanding (see 4.1).

As Halliday and Carruthers (2007) argue, in a globalized landscape, it is not the authoritative transnational and global bodies that create norms that they can then impose more or less subtly upon a hapless world. The process of implementation always and everywhere involves “negotiation” between those who create global norms and those who implement them, and should therefore never be conceived of as a top-down universalizing undertaking. This implementation process is brittle and there are many contingencies: norms settle, but they settle without concordance among different levels. This means that states may adopt the formal institutions and legislation that is compliant with global – human rights – norms, or that HRBAD may be conceived of by development agencies, but that, due to domestic resistance, there is uncertainty regarding the translation of these norms to local realities and that the eventual norm at the domestic level is often not in line with the norm at the global level. It is therefore unsure how a policy which is conceived of at the highest level and which is normatively based on one of these universal discourses, will be implemented and play out on the ground, due to the existence of domestic specificities. This makes the evaluation of the implementation of a HRBAD a relevant undertaking, as we cannot assume that HRBAD norms which are set at the highest levels will also be interpreted and implemented in the same way in practice.

Building on ordered pluralism’s premises, this report moreover acknowledges that the coordination and implementation of norms or policies can be more flexible than what is commonly understood, and that a degree of flexibility does not per se mean that a policy is not being implemented adequately. The report acknowledges – not prescribes – that various actors pursue norms, and influence one another in the process of doing so, thus challenging the traditional idea of a hierarchical system in which laws, norms and programs can be implemented in a purely top-down manner (Berman 2007). This brings us to ordered pluralism’s core assumption inspiring this report’s analysis, namely that of “law as a network” (Ost and Van de Kerchove 2002). The global integration and implementation of law takes place by means of coordination and harmonization of the horizontal and vertical relation between existing legal orders, at different speeds and levels and through different instruments

(Delmas-Marty 2006)¹³. This view also inspires our analysis of policy implementation. We do not assume a top-down strategy to be the most efficient means for implementation per se, but acknowledge the existence and potential of different instruments, norm-entrepreneurs and dynamics within these networks as potential resources for policy implementation.

Next to this, our analysis is also inspired by the core principles of *critical legal studies*, and in particular in this school's critique that human rights law transforms people into "passive entities who require outside aid" from human rights institutions (Urueña 2012: 3). Urueña argues that the preconceived notion of human suffering which is implicit in human rights norms impedes rights-holders from expressing their unique – individual or collective – experience, thereby subjectivating them and depriving them of their individual agency (Mutua 2001). A conscious implementation of the HRBAD can help to overcome this, as a HRBAD prescribes attention to local ownership, empowerment and bottom-up processes. In order to arrive at a HRBAD that includes real human experiences, and is thus better able to deal with everyday human rights issues, we need to move away from the hegemonic interpretation currently dominating much of the thinking on development issues and move towards a situation in which international and non-governmental organizations from the North no longer enter other countries as benefactors implementing their own programs in a top-down manner, but where, instead, these top-down approaches are replaced by a more robust bottom-up way of thinking about the development project which questions the Western authorship of the human rights-based approach in particular and of human rights norms in general (Rajagopal 2003: 232, see also Baxi 1998). When analyzing the implementation of a HRBAD, we will thus also focus on the extent to which this element is considered in strategic documents, i.e. the extent to which the approach genuinely fosters the empowerment, participation and inclusion of rights-holders, as is also foreseen by the UN Statement of Common Understanding (UN 2003).

Critical legal studies furthermore argues that international human rights law can only have a mobilizing potential, if it is interpreted in a context-specific manner. By extension, one could argue that also a HRBAD only has mobilizing potential if it succeeds in inscribing itself in local reality. Also the UN Common Understanding (UN 2003) subscribes to this idea by emphasizing that interventions should foster local ownership and be locally owned. This is therefore also an element in our analysis.

¹³ For a discussion of the challenges to legal certainty which this interpretation brings along, see Baumgaertel et al 2014, Tamanaha 2008, Brauch 2005)

Despite its critical approach, this report explicitly acknowledges the relevance and potency of the human rights discourse as a means to mobilize local and transnational communities, as a compelling normative framework, and as a tool to emphasize duty-bearers' responsibility to safeguard the rights of rights-holders and to promote a "more decentralized, participatory politics and a more engaged and pluralistic civil society" (Blau and Moncada 2005:18).

3.3 THE LOCALIZATION OF HUMAN RIGHTS

Standard-setting and program design by development actors has traditionally been a top-down process in which international organizations propose frameworks for intervention at the level of headquarters, which are then implemented on the ground (Vandenhole 2012). Yet, it is increasingly acknowledged that a strictly legal or top-down evaluation of human rights-based programming is not per se the most useful one to gain a better understanding of how these interventions work in practice, and that a focus on the reality on the ground can improve our understanding of development and human rights practice (see for example Merry 2006, 2007, 2009, Liebel 2012, Snodgrass Godoy 1999). Hence, there is an increasing interest – in academia and on the ground – for taking the realities and practices of rights-holders into account and for considering how human rights-based programs are implemented and how human rights norms are received by rights-holders away from New York and Geneva. The number of studies conducted on the topic of the local appropriation of human rights and the flexibility of human right norms is high, and covers a broad range of issues and contexts. One of these strands of literature explores the interaction between the different international legal systems on the one hand, and local and national institutions involved in human rights protection on the other hand. This strand of literature is relevant for this report because it allows us to gauge what our findings on the implementation of the HRBAD could mean for the debate on the local relevance of human rights more generally. In this section of the theoretical chapter, we explore this perspective of *localizing human rights*, and thereby lay the foundation for the discussion in chapter six, where we use our findings on the meaning and implementation of the HRBAD by UNICEF to assess what the potential for contextualizing and upstreaming human rights norms is in this context.

3.3.1. PERSPECTIVES ON THE RELATION BETWEEN THE LOCAL AND THE GLOBAL

Several other concepts in literature orbit around the notion of localization, and address different aspects of how transnational human rights norms can be applied to local contexts. Legg (2012) and Delmas-Marty (2006), for example, discuss the notion of the '*margin of appreciation*'. This concept is often cited in relation to the

European Court of Human Rights (ECHR) to refer to the mechanisms for “striking an optimum equilibrium between convergence and divergence in a transnational or international setting” (Rosenfeld 2008: 450). This mechanism for rendering universal human rights more relevant, comes close to what Carozza’s describes as *subsidiarity* (2003). Carozza, like many studies on the European Court of Human Rights’ margin of appreciation, is critical though of the extent to which these types of defections from universal norms are actually making human rights more relevant, and not just undermining them.

Other concepts are often used to refer to the actual idea of human rights being adapted to the local context, like that of *contextualization* (Zezeza 2004), *indigenization* (Merry 2006), and *plurality* (Falk 2000, Baldering 2004). These notions refer to a more genuine process of local appropriation and adaptation of norms to the local realities. Whereas subsidiarity and margin of appreciation refer to lower-level courts proposing their own interpretation of international legal provisions, the notions of contextualization, indigenization and plurality refer to the dynamics and efforts which happen at a societal level, by norm-entrepreneurs, to make international human rights norms locally relevant. During this process of translating international concepts to the realities of local communities and individual rights-holders, the meaning of transnational ideas often shifts and a more hybrid human rights discourse arises, giving rise to new subjectivities (Merry 2006b).

A particularly pertinent concept in this respect is the notion of *vernacularization*, proposed by Merry (2006a, 2006b, 2007 and Levitt and Merry 2009, 2011). Merry builds on literature on the nature of cultural transformation to argue that core features of transnational ideas need not change when local communities appropriate them, but can, instead, be reassembled so as to better reflect the local realities and be more compatible (Levitt and Merry 2009). Nor do these international norms per se require the fundamental reshuffling of local culture. Instead they can add to it. In order for human rights norms to be effective, they need to be translated into local terms and situated within local contexts of power and meaning (Merry 2006b). Merry and other scholars arguing along this line, stress the importance of norm entrepreneurs or translators who aim to mediate between the conflicting value systems, and who propose new frames (see also Snow 1996, Marx Ferree 2003). The paradox of this process lies in the fact that on the one hand, these frames need to be sufficiently compatible with the local realities. Yet, on the other hand, they must introduce ideas that are often foreign to the local rights-holders. Hence, using frames that are too close to the local understanding may undermine the potential of a frame to actually trigger change, whereas introducing frames that are genuinely different may be out of touch with local realities and thus not take root. Ideally speaking, this

balancing act leads to a situation in which new ideas are introduced into the local context as a complement to the existing belief systems. This interpretation of how transnational norms are localized however retains a top-down bias, because it mainly focuses on how ideas and norms that are decided upon at the transnational level are adapted to the local context, and how they can enrich existing local norms and practices. What is missing is an understanding of how these local realities can feed back into the programs of international actors and how they can inspire the development of the human rights framework.

To accommodate this issue, the idea of *inclusive universality* (Brems 2001), offers some anchor points, because it stresses, on the one hand, processes of political and cultural change, which aim to make societies more receptive to human rights, and, on the other hand, it underlines the need for flexibility within the international human rights system, to accommodate particularistic human rights claims. Also the notion of *upstreaming* human rights (de Gaay Fortman 2011) highlights the bottom-up side of the story, arguing that an upstream approach to human rights – which arises from people’s own convictions on concrete freedoms and entitlements – is needed to ensure the local relevance of human rights norms. Most of these perspectives however focus on either the bottom-up or the top-down process, and few integrate both.

3.3.2. LOCALIZING HUMAN RIGHTS, A DIALECTIC UNDERSTANDING OF HUMAN RIGHTS PRACTICE

The above perspectives on the interaction between global norms and local realities, inspired the development of the theoretical perspective used in the last chapter of this report. We will refer to this perspective as the localization of human rights (LHR) hereinafter. The focus of LHR is dual and considers, on the one hand, how local rights-holders interact with transnational human rights norms to adapt them to their local context, and, on the other hand, the extent to which local practices can feed back into the human rights norms at the transnational level and thus contribute to achieving universal protection of human rights and human dignity (De Feyter 2011). The localization perspective can be seen as a normative stance and an attempt to make rights relevant for the most disempowered and vulnerable groups and to assess how the local level actors participate in human rights development and elaboration (Ore Aguilar 2011). It is, in other words, an effort to improve the usefulness of universal human rights provisions in addressing local problems. The perspective is therefore not used in our analysis of the implementation of a HRBAD as such, but it does allow us to assess how the program which is developed on the ground facilitates that local level actors participate in the development of the HRB-

program, and by extension, whether there are any avenues for their voices to be heard by international norm-setters. In sum, while the LHR perspective focuses on the contextualization and upstreaming of human rights norms, the perspective can also be used to assess these dynamics in the case of human rights-based programming. The goal remains the same in both cases, i.e. to analyze the processes – *in casu* contextualization and upstreaming – through which universal standards and discourses can be rendered more locally relevant in order to better protect human rights, which is also the eventual goal of the UN Common Understanding. In the theoretical section however, we discuss the original localization perspective, applied to the issue of human rights. In chapter six, we apply the perspective to a HRBAD more specifically.

LHR's attempt to 'decenter' human rights law – and, by extension, human rights-based programming – and to ground our understanding in local social practices is a response to the reality of the current human rights regime which is characterized by contradictions, uncertainties and normative incompleteness (Goodale and Merry 2007). This normative incompleteness is not a failure of the human rights framework as such. On the contrary, the openness is by several scholars considered essential to the development of what are different - living and organic - ideas of human rights (see for example Goodale 2007: 26). This does not challenge the universality of human rights¹⁴ but merely invites for a more culturally and politically relevant reconceptualization of the current human rights system.

The localization perspective – like that of inclusive universality or vernacularization – argues that there is no inherent contradiction between maintaining human rights as a global language and allowing for variations in content in order to make human rights protection as relevant as possible for local actors. What is specific for the LHR perspective is that it argues that the global level can be enriched by taking the local level into account. In practice as well as in theory, a shared understanding of human rights cannot be aspired if local voices are not heard (De Feyter 2011). This dialectic and networked understanding of rights, implies a degree of plurality as well as a systematic openness to integrate local experiences (Ost and Van den Kerchove 2002). This plurality of approaches within the human rights discourse reinforces rather than diminishes the effectiveness of human rights (De Feyter 2011). In other words, variation does not undermine the essence of human rights norms, but instead increases their potential to be useful for local actors.

¹⁴ Note that this report contrasts the notions of *universality* (concepts with universal application or applicability) and *universalism* (universalism could be used as a form of cultural, economic or political imperialism and can destruct local cultures).

By building on insights from legal anthropology the LHR perspective offers an in-depth exploration of how human rights law plays out in the lives of people on the ground and how this can be relevant for transnational actors. This entails the acceptance that law can be present in many forms, but also implies the infusion of local sensitivities into the transnational discourse. In other words, in order to arrive at an inclusive process of norm creation, the local should feed back into the global (Baxi 2002, 2009).

This interaction between local and global human rights norms can be achieved in two ways. Firstly top-down, by exploring how existing international human rights law and abstract treaty norms can be translated to concrete local realities; and secondly bottom-up, by developing global human rights law and practice further in a responsive manner with attention for local input, and in directions that will improve its local effectiveness (De Feyter 2011). It is the bottom-up effort which distinguishes the localization perspective from other perspectives on the relation between the global and the local, such as vernacularization or contextualization. The latter do not usually explore the opportunities for the local to talk back to the global.

In practice, an increased presence in the field can be one of the avenues to augment the awareness of local sensitivities and experiences. Through this increased presence, gaps in the global protection system can be detected more easily and global human rights action can be redirected in a flexible manner. Through the lesson-learning efforts of local branches and their relations with local NGOs and community-based organizations, the global human rights system can potentially become more open to efforts and priorities arising at the grassroots level (De Feyter 2006). This importance of in-country presence is also increasingly picked up by actors like the UN Office of the High Commissioner for Human Rights, which describes the need for increased in-country presence as a means to “benefit from the support, analysis and expertise of civil society” in its 2005 Plan of Action (OHCHR 2005, par. 36-37).

Local presence is crucial from a localization perspective in the sense that adequate upstreaming of local concerns is hampered if certain actors are not part of the human rights network. De Feyter (2006) hypothesizes that community-based organizations, local NGOs, international NGOs and governmental and intergovernmental organizations need to be in place as partners of a network in order to guarantee the responsiveness of different policy levels and legal regimes.

3.3.3. ADDED VALUE AND CHALLENGES OF THE LOCALIZING PERSPECTIVE

Having outlined the principles and assumptions of the localization perspective, we now consider what the potential added value and challenges of such a perspective

are. This is particularly important to consider given the normativity of LHR. LHR is a normative framework, which stresses the importance of the global system becoming more open to upstreaming efforts from the grassroots level in order to render the universal human rights discourse more relevant for local actors (see also de Gaay Fortman 2011).

Because of its focus on processes of upstreaming and downstreaming and on actors at different levels, the localization perspective can also be applied to other issues than human rights. Since the core of the localization process is to render discourses which exist at the global level more locally relevant through a bi-directional process, this perspective can for example also be used to study issues like the human rights-based approach or interventions by development agencies more generally. Also in these cases, the localization perspective would expect to see an effort by local norm-entrepreneurs and norm translators to create an accommodating environment in the local culture and to translate transnational discourses in a locally relevant manner. These norm entrepreneurs can act as messengers in the opposite direction by introducing local sensitivities into the discourse of transnational actors. The former process is referred to in this report as contextualization, the latter process is referred to as upstreaming of local concerns. Neither of these processes is per se limited to the issue of human rights.

From an analytical point of view, the main challenge of the localization perspective lies in the fact that horizontal networks are particularly complex to analyze and that power relations and inequalities at the grassroots level are difficult to account for. Accounting for these challenges during the operationalization of the empirical analysis however, means that one can analyze reality through a theoretical perspective which pays more attention to the non-hierarchical elements of human rights provisions and to the ownership and agency of those affected by these norms. This allows for a more complex understanding of human rights issues (De Feyter 2006). Another argument in favor of the localization approach is the efficiency argument. Communities that undergo a human rights crisis, accumulate knowledge. They gain an understanding of the usage of human rights linked to their concrete living conditions. The recording and transmission of this knowledge (regardless of whether the appeal to human rights was successful or not) is essential for human rights to eventually develop into a global protection tool (De Feyter 2006). Lastly, the localization perspective attributes a central role to local public authorities, a level often overlooked in the literature on human rights. This is remarkable, since local authorities are less influenced by concerns of national interest than central state authorities, and are therefore theoretically more committed to the realization of human rights within their sphere of influence. Local authorities are thus ideally

placed to act as brokers between local human rights claimants and the international human rights regime. They can be seen as ‘the substantive guarantors of the international law of human rights’, because they stand closer to citizens than other public institutions (Papisca 2011: 85). The LHR perspective seeks to paint a more detailed picture of how actors at different levels interact.

In the empirical section of this report, the local level – both community-based organizations¹⁵ and local officials – will therefore play an important role. Whereas community-based organizations will be considered either as rights claimants (who invoke human rights), or supportive users of human rights (who support the realization of human rights), local officials will be considered duty-bearers or rights realizers (in case they give effect to human rights) (Desmet 2014). This decision is based on the idea that local authorities can be seen as legal duty-bearers which have a direct duty in realizing human rights, whereas community-based organization do not have this formal obligation, and should therefore be considered supportive or indirect users of human rights. It should be acknowledged that there is a degree of controversy involved in this categorization of actors, as local authorities can also be seen as claimants vis-à-vis the national authorities and even vis-à-vis international organizations and human rights bodies, e.g. by claiming resources to be able to realize their own human rights obligations. Thus, while this report refers to local authorities and local officials as duty-bearers, it should be kept in mind that their position is a nuanced one, and that in some case they can also be seen as claimants.

While the state is the primary guarantor of human rights as such, we focus on the transnational actors in this report, given our focus on the implementation of the HRBAD and the potential for the localization of human rights. Given the premises of a HRBAD and its stress on participation and bottom-up work, we can justifiably expect an interest on the side of transnational actors adopting this approach to substantially involve local stakeholders in the formulation of human rights norms and HRBAD programs alike. Therefore, the sixth chapter focuses on how UNICEF DRC’s WaSH-division deals with input from the local level regarding its program. This invites for both an analysis of the existing avenues for sharing local input and of how the input from these forums is dealt with by the transnational actor. In other words, the

¹⁵ Community-based organizations are defined as grassroots structures organized for and by members (Narajan 2000), which function as a unitary body within a geographically delimited area, on the basis of a common interest (Kaufmann et al 1997). Their goal is to increase the power of people at the grassroots level (Ore 2011) by enforcing and/or monitoring law-making directly or indirectly (Gready 2004). Note that for the purpose of this study, our definition is broader than organizations engaging in human rights protection (See De Feyter 2006)

process of lesson learning, institutional adaptation and interaction between the transnational actor and the local community actors, in particular with regards to the HRBAD, is central in chapter six.

The Sundi-report assesses in more detail the dynamics on the ground with regards to human rights, i.e. how local actors interpret human rights norms, how they arrive at a certain understanding, and how local culture and international norms are co-constitutive. Both studies thus shy a classic bottom-up vs. top-down approach and instead opt for a more inclusive perspective that places the interaction and the simultaneity of upstream and downstream processes at the center.

4. THE EVOLUTION AND IMPORTANCE OF THE HRBAD WITHIN THE UNITED NATIONS

The HRBAD refers to a conceptual framework for the process of human development that is “normatively based on international human rights standards and operationally directed to promoting and protecting human rights” (OHCHR 2006: 15). It prescribes, amongst others, the internalization of human rights values (organizationally, nationally and individually), the development of a human rights sensitive organizational culture, the strengthening of international and national human rights capacities, and the institutional will for the promotion, protection and realization of human rights (UNDP 2006: 6).

In this chapter we discuss the context in which the HRBAD was conceived of, the factors influencing its evolution, and its importance at present. To arrive at a comprehensive understanding, we assess these issues for the UN system in general (4.1.) as well as for UNICEF more in particular (4.2). Within UNICEF, we zoom in on the division for Water, Sanitation and Hygiene (4.3) and on the dynamics at the level of the country office (4.4). The chapter thereby feeds into the next chapter on how a HRBAD shapes interventions in the context of the *Villages Assainis* program in the DRC country office.

4.1. EVOLUTION OF THE HRBAD WITHIN THE OVERALL UN SYSTEM

In this section, we discuss how the HRBAD evolved within the overall system of the UN, considering the UN’s motivations for adopting a HRBAD, the challenges and benefits thereof, and what the position of the HRBAD is at present.

4.1.1. ORIGIN AND RATIONALE FOR ADOPTING A HRBAD

To understand how the HRBAD has evolved within the UN system, it is important to consider its origins. Human rights were explicitly acknowledged as the ground rules for development programming for the first time during the World Conference on human rights in Vienna in 1993 (UNDP 2006b). The increased interest in what human rights meant for the mandate of many specialized UN agencies, was triggered by the UN Declaration on the Right to Development (1986), which incited these agencies to embed their work more explicitly in the human rights discourse. In the wake of this increased attention for the relationship between human rights and development, United Nations Secretary-General Kofi Annan, upon taking office in 1997, outlined his vision and proposals for United Nations reform. During his inaugural lecture, he

called for an emphasis on human rights and the need to integrate human rights into all principal UN activities and programs. His address advocated the move towards a human rights-based approach to development by the various United Nations programs.

There was an instrumental rationale to the adoption of the HRBAD, as well as an intrinsic one. Regarding the instrumental rationale, the HRBAD held the promise of making development aid more effective and of acknowledging the co-constitutiveness between human rights and development. Integrating development and human rights meant that development would come to be seen as a state obligation, and no longer as charity or as something for which one depends on the goodwill of a third party. In this light, building state capacity, strengthening social cohesion and anchoring change in a framework of law and institutions came to be seen as crucial elements for fostering sustained and sustainable results and democratic governance. A HRBAD would moreover allow for a more comprehensive analysis of development, state obligations and practical and strategic needs of rights-holders. It held the promise of encouraging more comprehensive interventions which would address the structural root causes of development problems, such as power inequalities, rather than focusing on the symptoms. Through a focus on excluded and marginalized populations and a holistic view of people's environments (communities, local authorities, community-based organizations, the legal framework, etc.), the HRBAD would allegedly lead to more sustainable development outcomes (OHCHR 2006). Moreover, its focus on participation, transparency and accountability, aims to ensure that national stakeholders are active participants in the development process and have genuine ownership and control over it in all phases of the programming cycle and that local voices are heard (UNDP 2006a: 16). In addition, the explicit recognition of the importance of human rights for development, and the existence of treaty monitoring bodies that issue recommendations, in theory, allows for the monitoring of state commitments.

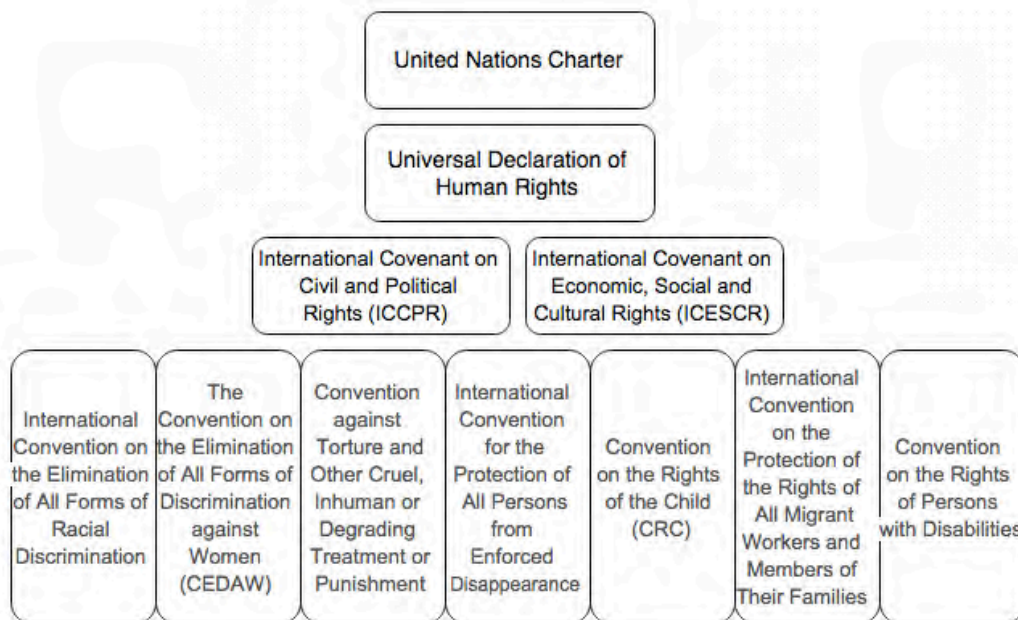


Figure 1 Core human rights treaties. Framework for a HRBAD (updated from UNDP 2000a: 4)

There were thus many instrumental incentives to adopt the HRBAD. Next to this, there was however also the intrinsic rationale that this was ‘the right thing to do’ (OHCHR 2006). As the UNDP’s development resource (2006b: 8) reads, a HRBAD invites staff and policy-makers to reflect on the impact of their actions beyond what should be done, and the global legitimacy of human rights provides an objective starting point for dialogue and discussions with government and external partners¹⁶. Moreover, international human rights treaties in essence mandate a HRBAD in the sense that a HRBAD can, in theory, assist countries in translating the goals specified in the instruments of the universal human rights system into time-bound and achievable national results (UNDP 2006a: 5, see Figure 1).

Moreover, according to the OHCHR, the HRBAD is not, in itself, in contradiction with the results-based management-principles which guide most UN programs¹⁷. The

¹⁶ It is precisely this assumption of global legitimacy and value-neutrality which we question in chapter six, where we gauge what this report can teach us about the potential for increasing global legitimacy by listening to the voices from below.

¹⁷ Both HRBAD and results-based management are among the five UN programming principles that emerged from inter-agency discussions. The remaining three are Gender Equality, Capacity Development and Environmental Sustainability. All five are considered necessary for effective UN-supported country programming that must balance the pursuit of international norms and standards with the achievement of national development priorities (UNDOC 2010).

guideline on HRBAD issued by the OHCHR (2006) argues that both approaches are compatible in the sense that the results-based management only requires the establishment of clear goals and desired outcomes, and that these goals should be decided upon on the basis of the human rights consideration. The goal of results-based management is to make sure that all processes and planning contribute to these human rights-related outcomes, outputs and impact (OHCHR 2006: 31). It is argued that “there can be no realization of rights without results [...] There has to be progress in society. Children have to be less malnourished, have to die less often, and have to go to school [...] Those are results which can be planned and monitored through results-based management.”

In practice however, our own interviewees as well as UN staff interviewed for other evaluations (e.g. UNICEF 2012: 48) *did* mention several practical obstacles to the application of both HRBAD and results-based management-principles, such as time constraints, financial pressures and the requirement of demonstrating short-term aid effectiveness. The OHCHR’s argument (2006: 31, see *supra*) that, if progress on certain human rights indicators is measured, we can assume that a HRBAD has been adopted, is problematic in two ways. Firstly, progress on human rights indicators is not per se a consequence of a HRBAD. Secondly, this narrow interpretation hollows out the meaning of a HRBAD, and reduces it to the achievement of goals, without paying due consideration to the process through which these goals were achieved. That this focus on outcomes rather than processes has not always been there, is illustrated by the UNDP guide on the HRBAD of 2000, which puts great emphasis precisely on the process, when stating that a HRBAD is not merely about expanding people’s choices and capabilities but also, and above all, about empowering people to decide what this expansion of capabilities should look like (UNDP 2000: 2). It furthermore reads that the goal of a HRBAD “is to provide more focused situation analyses which lead to more effective strategic interventions, to enhance ownership in the process and outcome whilst forging stronger partnerships, the democratic process should be strengthened to render efforts more sustainable, and under rights-based management, benchmarks and indicators should be identified. The key is that governance issues be included into poverty reduction and development strategies” (UNDP 2000b: 8).

The optimism of the OHCHR manual is indicative of a more general belief in the potential of the HRBAD and its compatibility with existing frameworks, which characterized the early 2000s. This optimism in the first years of the HRBAD’s existence existed despite some challenges and pitfalls which the HRBAD entailed. The focus on the inclusion of the individual rights-holders as active participants in the development process, for example, led to a tendency of shifting responsibility to the

rights-holders rather than holding the duty-bearers accountable (see, for example, OHCHR 2006, UNDP 2007, UNFPA 2010). Moreover, the HRBAD entailed, and continues to entail, certain conceptual quagmires. Rights are not neutral and cannot be imposed as such, but require certain political choices, in order to define what the right refers to and what will be prioritized. Another potential problem is that the HRBAD emphasizes the central role and responsibility of the state but often only exists in the minds of development organizations and donors. In situations where these actors act as technical partners to government, they cannot easily challenge the state. In these cases, partners might have to condone human rights violations by the state despite their own human rights discourse. This tension has not actively been dealt with by actors proceeding on the basis of a HRBAD, like UNICEF, and undermines the meaning of a HRBAD, as well as its perceived effectiveness.

4.1.2. EVOLUTION AND CURRENT STATE OF THE HRBAD IN THE UN SYSTEM

In the years following the inaugural lecture of Kofi Annan, some programs took the initiative to start mainstreaming the human rights-based approach to development into their work. It took another three years however for any systematic action on the HRBAD to follow. In January 2001 a first interagency meeting on the topic took place in Stamford USA. The meeting reviewed the use of the HRBAD within ten participating UN programs and discussed the challenges they had experienced. The principal goal was to harmonize the work of different country teams regarding the implementation of the HRBAD.

A follow-up meeting was organized in 2003. This second workshop reviewed experiences, proposed amendments to the guidelines, and produced what has become known as the *Statement of Common Understanding* (See Appendix 2). During a third inter-agency meeting in 2008, the UN Common Understanding was further refined and conceptual issues were addressed by representatives of ten UN programs, the UN Development Group Office (UNDGO), eight UN country teams and observers from three bilateral donors (CIDA, SIDA and DfID).

Partially due to these interagency-meetings, partially in response to the work of the United Nations Development Group's Human Rights Mainstreaming Mechanism (UNDG-HRM)¹⁸, human rights mainstreaming progressively gained momentum. In the last decade, the UN has explicitly emphasized the fulfillment of human rights as a precursor and necessary condition for social and economic development (see, for

¹⁸ The UNDG-HRM was established in December 2009 as a successor to UN inter-agency Action 2 Global Program. The UNDG-HRM, made up of 19 UN Agencies, Funds and Programs, provides a platform for interagency collaboration to strengthen both policy coherence at the global level and operational support to UN country teams (WaterLex 2012: 42).

example, UNICEF 2012a: 1). This entailed a focus on the obligation of states to protect, respect and fulfill human rights (See, for example OHCHR 2006: 2), as well as a focus on good governance, since human rights require a conducive and enabling environment with appropriate legislation, regulations and institutions. As a key guideline on the HRBAD by the OHCHR stipulates, “processes should be transparent and participatory and governments should fully use the maximum available resources to further human rights”. Furthermore, the concern with human rights led to a principled concern with both individual and collective rights (Goodale 2007 and OHCHR 2006: 4), and to a vision that economic growth should be seen as a means (not goal) of development, consistent with the principles of human rights. However, as we will show in section 4.2 on UNICEF, while the HRBAD is still discursively adhered to, the extent to which it is used as a paradigm structuring interventions is decreasing. In the past, there was some explicit attention to the operationalization of a HRBAD at the level of the UN though. In the next section we discuss this operationalization.

GUIDELINES FOR OPERATIONALIZING THE HRBAD IN THE UN

When the HRBAD emerged as a framework, several UN agencies published manuals on what this meant for field officers planning interventions (See, for example, UNDP 2001, 2003, 2006a, 2006b, 2007, UNICEF 2007, UNFPA 2010, OHCHR 2012). The central idea is that human rights should guide the design of programs and their implementation, as well as the choice of development interventions, policies, strategies and projects, the setting of priorities and targets, the implementation of projects and the service delivery and monitoring and evaluation of projects. This means that every intervention should further human rights, but also lead to institutional and capacity development of both rights-holders and duty-bearers. Next to this, there are several other guiding principles common in all these documents on what HRBAD-inspired interventions and evaluations should pay attention to.

- a) The situation analysis should genuinely take into account the national context. A HRBAD calls for enhanced attention to the phase of assessment and analysis, providing amongst others full understanding of the legal framework of a country and the factors that create and perpetuate discrimination and social exclusion and hinder people from realizing their rights.
- b) Interventions should use participatory methodologies which involve each ethnic group in the analysis and assessment stage of the project.

- c) These methodologies should be inclusive and all stakeholders should be included in, or feel represented, during meetings with and between partners, the management team, field staff, and project communities.
- d) Inclusive processes should be aimed at increased local ownership.
- e) Participatory assessment and planning methodology should enable officers to develop an improved understanding of the power relations that exist between the different stakeholders and within each group, and of the local social, political and legal context more generally.
- f) Building partnerships with civil society organizations should be a priority, as well as training them in the planning and implementation of the program so that they can achieve autonomy in the future. This is needed to achieve genuine community management.
- g) Programs should develop a coherent advocacy strategy.
- h) Results-based management continues to be an important guiding principle and should remain the key for monitoring and evaluating programs. This includes the impact assessment of specific policies and programs of one sector upon another.

While these are concrete recommendations, they are to a large extent a reformulation of the principles agreed upon in the Common Understanding and there is little attention for the development of actual operational measures to achieve these goals in most of the guiding documents. Thus, while several manuals (e.g. OHCHR 2012) clearly stipulate that these concerns are not just rhetorical, but should be embedded in the mechanisms and methods of the programs, recommendations are on average rather vague, and provide little guidance for officers seeking to operationalize the HRBAD.

Some of the documents analyzed for this report however do live up to the expectation created by their title, i.e. that they are hands-on planning tools. This is the case for the 2003 UNDP Working Guidelines on the HRBAD and the 2006 UNDP Capacity Development Resource. The 2003 UNDP Working Guidelines is the only document by the headquarters of the involved UN programs which offer clear indicators for evaluating HRB-programs. One of the tools offered in the Working Guidelines are the checklists for evaluating interventions, such as the following.

- Are baselines grounded in human rights standards?
- Do targets clearly state the specific rights to be achieved based on these standards?
- Are indicators sufficiently disaggregated?
- Whose rights are being promoted?

- Are gaps in terms of realizing human rights clearly understood?
- Is capacity being built so that duty-bearers can meet their obligations?
- Is capacity being built so that rights-holders can claim their rights?
- Are there functioning mechanisms for participation, redress, and transparency?

Also the 2006 UNDP Capacity Development Resource offers similar clear checklists for officers adopting a HRBAD (UNDP 2006b: 9, see Figure 2). While these checklists appear to be more practical tools directly useful for officers in the field, these too, are in essence re-formulations of the principles of the UN Common Understanding, and offer no guidance on how to achieve these goals. There are, in other words ample documents, referred to as 'Working Guidelines', which specify what HRBAD-inspired interventions should ideally speaking look like and which offer checklists on this matter, but there are no actual guidelines offering advice on how to implement this approach, and no tools for learning from best-practices on this topic.

HRBA Checklist for Programming¹⁵

1. Country Context and UNDP Programme

- ✓ What are the 3 top priorities for human development in the country today?
- ✓ What is the environment in the country for promoting human rights?
- ✓ Which rights have yet to be fulfilled for the population as a whole, and what are the structural causes for this?
- ✓ What treaty standards and treaty monitoring body recommendations are relevant in this context?
- ✓ How does the UNDP Programme support the realisation of human rights?
- ✓ Do programme staff have the capacity to integrate human rights in their work, and a sound grasp of the UN Charter, human rights instruments, and the country constitution?
- ✓ How do other international partners support the realisation of human rights? What gaps remain?

2. Excluded and Vulnerable Groups

- ✓ Which groups are the most disadvantaged? How are vulnerability and poverty in the country defined?
- ✓ How does UNDP define vulnerability and poverty in the country?
- ✓ Are tools and indicators to identify excluded groups sufficiently disaggregated?
- ✓ How does the overall Country Programme address exclusion and disadvantage? How do specific projects do so?
- ✓ How do other partners do so? How do partners coordinate? What gaps remain?
- ✓ Does the UNDP Country Office adequately reflect the diversity of the country?

3. Stakeholder Capacity

- ✓ Who are the Country Programme or project stakeholders and how were they identified?
- ✓ Which are duty bearers and what obligations are they supposed to meet? Do they have the capacity to meet obligations (including responsibility, authority, data, and resources)?
- ✓ Which are claim holders and do they have the capacity to claim their rights (including ability to access information, organize, advocate policy change, and obtain redress)?

4. Country Programme and Project Process (Conduct)

- ✓ Does project design and implementation incorporate human rights standards as set out in international and regional conventions? Does the Country Programme?
- ✓ Does project design and implementation incorporate principles of universality, indivisibility, interdependence, equality, participation, and accountability? Does the overall Country Programme?
- ✓ Do both duty bearers and claim holders participate in project design, implementation, monitoring and evaluation? In the overall Country Programme preparation?

5. Country Programme and Project Outcome (Results)

- ✓ How has the overall Country Programme built capacities to realise human rights in the country? Do these address the structural causes for non-realisation of human rights? Which human rights will be further realised?
- ✓ How does the project build the capacities of duty bearers to meet obligations and claim holders to claim human rights? Which human rights will be further realised? How is this monitored and evaluated?
- ✓ Do indicators capture perceptions on the enjoyment of human rights as well as qualitative aspects, such as accountability of public authorities?

Figure 2 checklist for HRBA programming (UNDP 2006b: 9)

This suggests that the attention for the HRBAD has been mainly rhetorical and did not lead to the development of HRBAD-inspired operational tools. Also outside of the UN, the commitment to a HRBAD has been similarly rhetorical. As Darrow and Tomas (2005: 472) argue, “[U]shered in during the 1990s in response to

development failures of the structural adjustment era, human rights-based approaches have proliferated in myriad forms and contexts, from community-based capacity development to the integration of human rights in macro-policy contexts and national development planning. But the rhetoric has so far not been matched by conceptual rigor, systematization of practice, or lessons-learning – shortcomings that may undermine continuing support for such approaches”.

This is indeed what seems to be happening within the UN as well, where the last comprehensive guiding document on the HRBAD produced by one of the ten UN agencies participating in the Stamford Interagency meetings dates back to 2010 (UNFPA 2010). The majority of working documents was issued in the period 2003-2007, and even in this period, there was little attention for operationalization. In sum, at the level of headquarters, attention for the operationalization of a HRBAD seems to be low overall, and to be diminishing in the last five years. In the section on UNICEF, we pay more explicit attention to what can explain this diminishing attention.

4.2. EVOLUTION OF THE HRBAD IN UNICEF HEADQUARTERS

UNICEF was one of the first UN programs to adopt the HRBAD, and still shows an interest in the approach at present. For one, the organization ordered three global consultations (2002, 2003, 2012) to evaluate the progress in conceptualizing and implementing a HRBAD across various regional offices. In this section, we assess whether such initiatives should be taken at face value as an indication of the importance of the HRBAD for UNICEF, or whether other dynamics are at play. To assess this question in a structural manner, we first discuss the origin and meaning of the HRBAD within UNICEF and UNICEF’s rationale for embracing this approach early on. Then we elaborate upon the evolution and current state of the HRBAD within UNICEF at the level of headquarters. In section 4.3, we analyze the same questions specifically for UNICEF’s WaSH division, and, in addition, consider the impact of contextual and organizational factors on the position of the HRBAD on the basis of a document analysis.

4.2.1. ORIGIN AND MEANING OF THE HRBAD FOR UNICEF

The United Nations Children's Fund (UNICEF) was one of the first programs to consider how to implement an approach based on principles and standards included in the Convention on the Rights of Child (CRC), even before the address of the Secretary-General in 1997. Since the 1989 adoption of the CRC, UNICEF sought to identify ways in which normative processes of international human rights law could inform and guide development work for children and women. Because of its role as a

forerunner, it has taken the lead in developing the core principles of a HRBAD. This framework is centered around five principles, based on the UN Common Understanding (UN 2003). Below we elaborate on what the HRBAD-framework consists of for UNICEF, on the basis of their own presentation of a HRBAD (UNICEF 1998, UNICEF 2012a).

HUMAN RIGHTS NORMATIVITY

Normativity refers to the human rights principles of universality, indivisibility and non-discrimination (all of which underlie the CRC), and requires that UNICEF applies a HRBAD to the benefit of rights-holders, across all of its areas of competence and engagement. The principle of normativity refers to the eventual goal of a HRBAD, namely the empowerment of rights-holders on the basis of the human rights standards to be found in international human rights law. This principle prescribes that programming is developed on the basis of the promotion and protection of human rights as set out in the CRC and its Optional Protocols, CEDAW and other key international and regional human rights instruments. All of the human rights treaties provide guidance for the HRBAD, even if the CRC and CEDAW are the instruments that are most directly relevant to the work of UNICEF. Good adherence to these principles is manifested through the proper reference to these human rights conventions and recommendations in in-country programming documents.

The principle of human rights normativity moreover stresses the responsibility of duty-bearers and the idea that human rights-related lessons learned from actors on the ground, should be transmitted, as relevant, through the various human rights mechanisms and procedures of the UN system.

While partnerships are critically important for all good programming, normativity sheds light on particular partnerships that might otherwise be overlooked. Where necessary, partnership should be established with country-level human rights actors, including national human rights institutions and relevant government ministries, as well as with human rights-related civil society groups and field offices of international and regional human rights actors.

NON-DISCRIMINATION

The principle of non-discrimination and equality of rights-holders is at the heart of international human rights law and is fundamental to a HRBAD. It refers to the idea that HRB-programs should prioritize the improvement of the situation of the most marginalized and vulnerable rights-holders, and should develop systems to ensure that these programs are accessible for them (based on the principles of participation, openness and accountability). Non-discrimination does not require that all

programming should benefit all persons, or that everyone should be treated the same, but that those who are least able to demand and enjoy their own rights be prioritized in HRBAD. What matters in a HRBAD framework is to demonstrate that the situation of the most vulnerable is at the heart of programming strategy, and is given appropriate prominence.

PARTICIPATION

This principle prescribes that rights-holders and duty-bearers are clearly identified in the situation analysis, and that adequate formal mechanisms, as well as informal opportunities, are foreseen for their consultation and participation in all program phases. These frameworks for consultation and participation should be context-specific and take account of the relative degrees of dependency and empowerment of the relevant rights-holders and duty-bearers. To satisfy the principle of participation, it is necessary that the appropriate implementation systems and structures be put in place. This involves first identifying which groups of rights-holders and duty-bearers should participate. Moreover, rights-holders and duty-bearers should be provided with capacity-building support, as necessary, to enhance their participation. If it is to be meaningful, participation should make a genuine impact on programming. And to ensure that a HRBAD is considered 'good', it should be demonstrated how the views of rights-holders and duty-bearers have contributed to shaping program activities.

In practice, participation requires the identification of the relevant categories of rights-holders and duty-bearers. With regard to duty-bearers, the primary responsibility – and, according to international law, the sole legal responsibility – rests with the state, even if soft law increasingly acknowledges non-state actors as duty-bearers. The duties of the state are incumbent upon all of its agents at all levels. However, HRBAD recognizes that the category of duty-bearer should also extend to all of those actors who have responsibilities, including social and ethical responsibilities, towards rights-holders.

TRANSPARENCY

International human rights law recognizes a right of access to information. It is part of the right to freedom of expression, and is widely considered to be essential for the promotion and protection of human rights and for the maintenance of a democratic society. According to UNICEF, the right to information is reflected in HRBAD in the principle of transparency. Transparency is the necessary condition whereby rights-based actors can be held accountable and whereby rights-holders can participate meaningfully.

For programming purposes, transparency requires that all relevant information is made available in a timely and intelligible manner to both rights-holders and duty-bearers, and that duty-bearers act on their responsibilities to pro-actively make information available in all programming phases – in a manner relevant to right-holders – and that rights-holders are aware of the availability of information and are facilitated to access it.

ACCOUNTABILITY

Being a duty-bearer involves certain responsibilities and obligations – be they legal, ethical or other – which impose a burden of accountability upon all state agents at all levels. UNICEF acknowledges however that also other actors may be held accountable, namely all those who are engaged in HRBAD, including development organizations such as UNICEF and the private sector. Effective accountability requires permanent systems for monitoring as well as systems for complaint and redress. Moreover, the upholding of complaints should be shown to result in corrective measures and remedial action being taken, where relevant.

In chapter five, we will use this interpretation of the HRBAD proposed by UNICEF to distill twelve indicators for assessing the implementation of a HRBAD in the case of the *Villages Assainis* program in the DRC.

4.2.2. EVOLUTION AND CURRENT STATE OF THE HRBAD

UNICEF formally adopted a HRBAD with the Executive Directive 98-04 “A Human Rights Approach to UNICEF Programming for Children and Women: What it is, and some changes it will bring” which provides a conceptual direction for a HRBAD (UNICEF 1998). UNICEF’s Executive Directives are a guide to disseminate and implement a policy throughout the organization after it has been developed in consultation with the stakeholders. Executive Directives identify how a policy should be developed and implemented, spell out roles, take into account the structure of the organization, define protocols, and address other specific issues regarding the implementation of a policy, and thereby imbue immediate responsibilities upon regional and country offices. This specific directive led to the comprehensive elaboration on the HRBAD in UNICEF’s Program, Policy and Procedures Manual (2000, revised in 2007).

Due to this pioneering role and experience with a HRBAD, UNICEF used to provide input for the United Nations Development Group’s Human Rights Mainstreaming Mechanism (UNDG-HRMM), the UN Common Learning Package and the Common Country Assessment Guidelines. Also externally UNICEF aimed to demonstrate

effective leadership regarding the HRBAD, and was acknowledged as one of the first five UN agencies to adopt it as its framework.

Today, UNICEF continues to acknowledge the HRBAD as one of its founding organizational principles, but can no longer be seen as a vocal advocate of this approach. As the 2012 Global Evaluation shows, policy and monitoring documents by UNICEF's headquarters continue to – reticently - use the human rights discourse and the HRBAD framework. Based on this evaluation and our own document analysis, we can conclude that the HRBAD continues to be one of the formal organizing principles of UNICEF¹⁹, and UNICEF claims that it seeks to ensure that its own practices are in line with the UN Common Understanding (UN 2003) and with its own Executive Directive 98-04. Also UNICEF's mission statement, its last Medium-Term Strategic Plan (UNICEF 2011a), the Millennium Development Goals (UNDP 2014), and the CRC (UNGA 1989, art.45), CEDAW (UNGA 1979) provide foundations for UNICEF's engagement with a HRBAD.

With respect to water and sanitation – which is the focus of chapter five – the UN General Assembly Resolution 64/929 adopted in July 2010²⁰, as well as General Comment No. 15²¹ adopted by the Committee on Economic, Social and Cultural Rights in November 2002 provide the legal basis for framing water as a human right and for adopting the human rights discourse for interventions in the domain of water and sanitation. This means that all interventions and projects should be framed along these lines. As we will demonstrate in the next chapter, this is not always the case though.

Moreover, UNICEF has not transformed its human rights-based approach into an independent policy, despite recommendations to the contrary in the last Global Evaluation (UNICEF 2012: 52; 61, 75, 91). Turning this approach into a policy would give the HRBAD more weight, but interviews with UNICEF headquarters indicate that

¹⁹ Also see Moser 2002, Johnson 2003, Raphael 2004, Theis 2004, UNICEF Gender and Rights Unit 2008, Harding 2010.

²⁰ Through Resolution 64/292, the United Nations General Assembly explicitly recognized the human right to water and sanitation and acknowledged that clean drinking water and sanitation are essential to the realization of all human rights. The Resolution calls upon States and international organizations to provide financial resources, help capacity-building and technology transfer to help countries, in particular developing countries, to provide safe, clean, accessible and affordable drinking water and sanitation for all.

²¹ Article I par.1 states that "The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights". General Comment No. 15 also defined the right to water as the right of everyone to sufficient, safe, acceptable and physically accessible and affordable water for personal and domestic uses.

no steps in this direction are being taken. Instead, UNICEF aims to mainstream the HRBAD into its existing structures and policies, such as its medium-term strategic plan (UNICEF 2011a), its gender policy and its environmental policy. This, according to the Global Evaluation, has happened with varying degrees of success, and with vast differences depending on the country and the type of intervention (UNICEF 2012: 36).

In sum, at present, the HRBAD is considered as an implicit underlying principle rather than as a practical organizing guideline which structures interventions (for example in UNICEF 2005, 2007, 2011, 2012a). The medium-term strategic plan 2006-2013, for example, presents a commitment to a HRBAD as a cross-cutting approach for cooperation but includes no parameters which assess the human rights-based component of the program in the evaluation tools²² (UNICEF 2011a). The decreasing attention for the HRBAD in strategic documents thus also the operationalization of the HRBAD.

This dwindling commitment to a HRBAD is not only reflected in policy documents, but also in the internal policies of UNICEF headquarters. Firstly, when evaluating the knowledge and understanding of the core principles of a HRBAD (see section 4.2.1.) amongst UNICEF staff, the 2012 General Evaluation of the HRBAD (UNICEF 2012: 39) found that, despite an overall high commitment to a HRBAD, knowledge of its actual core principles is limited amongst staff members. As a consequence, the HRBAD is not consistently applied, and especially on the participation, accountability and transparency principles, staff members scored relatively poorly according to this study. While staff members sometimes integrate HRBAD concepts in their daily work, the study argues that this application is by and large based on their own interpretation, and that greater guidance, training and tools are required in interpreting and operationalizing the HRBAD in all sectors. Human rights normativity is found to be the best applied HRBAD principle, in the sense that there is a standardized uniform human rights discourse and internalization of the principles in the core UNICEF documents (UNICEF 2012: 59).

Secondly, the Global Evaluation indicates several other internal and organizational issues which should be influenced by the HRBAD, if this policy were operationalized,

²² Such as, for example, “Number of UNICEF country offices and regional offices carrying out thematic analyses such as poverty/disparities, social protection, migration governance reforms and economic or humanitarian crises affecting MDG outcomes using a human rights and gender analysis”, or “% new CPDs (country program documents) approved by the Executive Board that meet organizational standards for application of human rights-based approach.”

and argues that on these dimensions, HRBAD considerations were absent. One example is the human resources policy, which pays virtually no attention to HRBAD. Officers are not asked about their knowledge of, or commitment to, a HRBAD at the time of recruitment, they are not offered specific trainings on the HRBAD when they start working, and HRBAD considerations are no element in their yearly evaluation.

In conclusion, there is a substantial difference between the official rhetoric and strategies regarding the HRBAD and the impact this policy has on the internal functioning of UNICEF. The internal adoption and operationalization of HRBAD principles continues to lag behind. We consider what explains this disconnect between discourse and practice in section 4.3.3, but first we focus on the place of the HRBAD in UNICEF’s WaSH division in particular, as this is the division managing the *Villages Assainis* program which is analyzed in chapter five.



Source: Harding Survey 2010.

Figure 3 Senior staff responses to survey question "do UNICEF staffing policies, including recruitment and induction, facilitate effective HRBA?" (UNICEF 2012a)

4.3. EVOLUTION OF THE HRBAD IN UNICEF’S WASH DIVISION

In this section, we zoom in on the place of the HRBAD within UNICEF’s division for Water, Sanitation and Hygiene (WaSH). We analyze all programmatic and policy documents available through the WaSH portal, as well as the website itself, and several publications which interviewees referred to as key documents, to assess the – changing – importance of the HRBAD for the WaSH division. This resulted in the

analysis of 58 written documents²³. In addition, we used the input of interviewees from WaSH headquarters to contextualize our interpretation. For each of these documents we analyzed whether,

- a) access to water and/or sanitation was framed as a human right,
- b) the HRBAD was referred to as a guiding framework for interventions,
- c) other – competing or complementary – paradigms could be discerned.

Below we present the findings of the analysis of the first two aspects by zooming in on the strategic and operational documents (4.3.1 and 4.3.2) and the annual reports of the WaSH division (4.3.3). The third aspect regarding complementary paradigms is discussed in section 4.3.4.

4.3.1. REFERENCES TO HUMAN RIGHTS IN STRATEGIC AND OPERATIONAL DOCUMENTS BY WASH

While the discourse of human rights is used in several documents discussing access to water and sanitation, the rights language is not very prominent throughout. When examining the WaSH webportal for example, we only find seven instances where human rights language is used²⁴. Four of these references appear on webpages that have not been updated since 2003²⁵ or 2008²⁶. Only three mentions of water as a

²³ For an overview, please refer to the bibliography.

²⁴ This excludes links to other documents, which are analyzed below.

²⁵ “UNICEF aims, through its country programs, to promote the equal rights of women and girls and to support their full participation in the political, social, and economic development of their communities” (retrieved on 22 May 2014, from http://www.UNICEF.org/wash/index_womenand_girls.html)

²⁶ “The overall objective of UNICEF in the area of water, sanitation and hygiene (WASH) is to contribute to the realization of children’s rights to survival and development through promotion of the sector and support to national programs that increase equitable and sustainable access to, and use of, safe water and basic sanitation services, and promote improved hygiene.” (retrieved 22 May 2014, from http://www.UNICEF.org/wash/index_43084.html). “Addressing a child’s right to health and education through the provision of WASH in schools: UNICEF is committed to ensuring that all children have access to high quality water and sanitation services at school, and the benefit of hygiene education. School-based WASH activities represent an opportunity to directly address a child’s right to both education and health” (retrieved 22 May 2014, from http://www.UNICEF.org/wash/index_43084.html). “All people have a right to know about the relationship between water, sanitation, hygiene and the health of themselves and their families.” (retrieved on 22 May 2014, from http://www.UNICEF.org/wash/index_43107.html)

human right appear in sections that have been updated since 2013²⁷, indicating that recent updates tend to omit the rights language. Moreover, in the section that lists the work packages (for the emergency-, priority- and other countries) there is only one priority, out of a total of fifteen, which mentions rights. Furthermore, the section that discusses strategies for achieving these priorities, does not refer to rights at all. Also in the document archive on the website, none of the documents explicitly deal with human rights.

This relative absence of – recent – references to human rights from the website and its archive, is remarkable for several reasons. Firstly, when the website does refer to human rights, these are presented as a fundamental organizing principle for the WaSH division (see footnotes 25, 26 and 27 boven). The apparent importance of human rights in these mentions, raises questions as to why references to rights are so scarce overall. Secondly, comparing the WaSH website with that of other actors in the sector²⁸, shows that other actors adopt a human rights language much more explicitly than UNICEF's WaSH division. This is striking considering that UNICEF was initially a forerunner in the area of human rights and was one of the first to apply the human rights principles to structure its own interventions. The situation is somewhat different with regards to the documents posted in this webportal than for the language adopted on the website itself. There are a total of thirteen programmatic and policy documents (plus four annual reports) on the portal which adopt a human rights discourse, indicating that this continues to be an important discourse, even if it is not very prominent on the website itself.

²⁷ "Children's rights to an adequate standard of living and to the highest attainable standard of health are enshrined in the Convention on the Rights of the Child. The fulfillment of these rights is the ultimate goal of UNICEF's water, sanitation and hygiene (WASH) programs." (retrieved 22 May 2014, from http://www.UNICEF.org/wash/index_bigpicture.html). "Over the years, the UNICEF programs that started with an emphasis on water supply 'hardware' like drilling rigs and hand pumps have evolved towards a greater concentration on sanitation and on the 'software' of supporting policy development, building the capacity of institutions and raising awareness about hygiene. UNICEF uses a human rights based approach and works in partnership with communities – especially women and children – in planning, implementing and maintaining water and sanitation systems." (retrieved on 22 May 2014, from http://www.UNICEF.org/wash/index_action.html). "Factors related to water, sanitation and hygiene affect children's right to education in many ways" (retrieved on 22 May 2014, from http://www.UNICEF.org/wash/index_schools.html)

²⁸ See, for example, HRBADportal.org, Washwatch.org, rightrightwater.info²⁸ and wssinfo.org. These webportals are jointly managed by, amongst others, WaterAid, Rights and Humanity, Wash United, End Water Poverty, and Freshwater Action Network.

Four documents on the webportal stand out in terms of their use of a human rights discourse, amongst others the two post-2015 WaSH program documents (WaSH 2014a, 2014b). Both documents consistently refer to WaSH interventions as being inspired by “the normative criteria of the human right to water and sanitation”, throughout the text. It is stressed that “targets should reflect the human rights to water and sanitation, and the concept of progressive realization of the rights” (2014a: 4). There is also attention for the fact that other partners should respect human rights and engage with this topic, and that the process should involve “national human rights institutions, civil society and community based organizations, human rights organizations and academia” (2014a: 14). The right to water is used in these documents to set future goals and targets and to formulate a roadmap for further action (2014b: 2). Hence, the WaSH-targets for 2015 are “global, outcome-focused, and reflect a progressive realization of the human rights to water and sanitation” (2014b: 2). Lastly, these documents describe how the Situation Analysis and planning efforts should be carried out by a team of WaSH specialists and human rights experts, in collaboration with academia and the global monitoring community, explicitly using the human right to safe drinking-water and sanitation as guidance for the formulation of goals, targets and indicators” (2014b: 2).

Also UNICEF’s “Water, Sanitation and Hygiene strategies for 2006-2015” (Wash 2006) - one of the most important guiding documents of the WaSH division which sets out the overall objective of UNICEF’s WaSH division for the decade - explicitly adopts a human rights discourse. The language of human rights is used in a structural manner throughout this document, both when formulating the goals of WaSH²⁹, when justifying interventions (guaranteeing that children’s rights are lived up to), when listing the instruments for arriving at this (CRC, CEDAW) and when stating the desired outcomes (to see children’s rights lived up to). Throughout, the document refers to the right to water as an end in itself and as a prerequisite for ensuring the right to basic education and other rights.

A last document on the website in which the rights discourse features prominently is the program document for Water, Sanitation and Hygiene Education for schools (WaSH 2005). The right to water and sanitation, and rights of children more generally are frequently mentioned as reasons why UNICEF should intervene, and the rights-discourse is used to stress the responsibility of duty-bearers to guarantee these

²⁹ i.e. to realize children’s right to survival and development through the promotion of the sector of water, sanitation and hygiene and support to national programs that increase equitable and sustainable access to and use of safe water and basic sanitation services and promote improved hygiene.

rights. This means that there is also a strong focus on the capacitation of government, on structural partnerships with local actors, and on fostering a clear political will to ensure that national policies for water, sanitation and hygiene are integral parts of national strategies for sustainable development and poverty reduction [...] Governments should be prepared to invest in water and sanitation services for their populations” (WaSH 2005:16). The document is thereby one of the few examples which uses the human rights discourse to stress the responsibility of duty-bearers.

The four documents above are exceptions however. Of the thirteen documents on the WaSH website which explicitly refer to human rights, these are the only ones to do so elsewhere than in the (sub)title(s), introductory paragraph or conclusion. The remaining nine documents only adopt a human rights discourse as a rationale for intervening, rather than as a concrete inspiration for how the program should be managed (see e.g. WaSH 2000a³⁰, 2000c³¹, 2013d³², 2012a³³, 2009c³⁴, 2010c³⁵, 2013c³⁶)³⁷. These documents coin human rights to explain why UNICEF should at all care about sanitation, but often fail to specify how a HRBAD and a rights-based agenda will strengthen the practical work in this area³⁸. This does not mean that

³⁰ References to basic human rights (2000a: 5), the right to live in dignity (2000a: 5), the right to water and sanitation (2000a:9).

³¹ References to promoting human rights and dignity (2000c: 2) and the CRC (2000c: 3).

³² References to the right to education (2013d: 6), the right to protection from violence (2013d: 10), human rights and women’s rights (2013d: 12), and the HRBAD (2013d: 15).

³³ References to the right to be healthy (2012a: 18), the right to learn with dignity (2012a: 18), the right to water, sanitation and hygiene (2012a: 2), the right to health and education (2012a: 4), general (2012a: 4).

³⁴ Reference to the right to education (2009c: 22).

³⁵ References to the right to education and the right to health (2010c: 2).

³⁶ References to the right to water, sanitation, health and education (2013c: 21-22).

³⁷ Also see Wash (2009d) which uses the human rights discourse consistently throughout the entire document, albeit in a modest way (ten mentions of human rights in a 45p document), and WaSH (2007) which also consistently uses the human rights discourse to justify interventions of UNICEF and the IRC in the domain of WaSH, albeit in a modest and generic manner.

³⁸ Also see, for example, UNICEF’s handbook on water quality (WaSH 2008), which is a technical document frequently invoking the human rights discourse (e.g. safe water as a basic human right (138-139), the right to knowledge (82-83, 138), rights of children (47, 48, 139), the right to health (139), the right to adequate living conditions (139) and rights and obligations (143)). The document also explicitly refers to the CRC on several occasions, and acknowledges the importance of sanitation, and of the Committee on Economic, Social, and

these remaining documents adopt an uncritical attitude. The Sanitation For All manual (Wash 2010c: 10), for example, denounces the narrow focus on technology or the application of one-size-fits-all models and instead advocates community planning and community management (WaSH 2000c: 10). It does however not structurally refer to human rights as an inspiration for alleviating existing problems.

Next to these programmatic documents on the website, interviewees also identified some more hands-on documents at the level of WaSH headquarters which inspired their work. In these resources too, human rights are sometimes mentioned as a general inspiration for the program, but the overall human rights discourse remains largely ephemeral³⁹. Hands-on tools, such as a flashcard-folder to be used when working with children, aim to further children's right to water, but do not explicitly aim to raise awareness or inform children *about* their rights (Wash 2011c, 2011d). So the human rights discourse is – in a modest way – implicit in strategic documents and training materials, but is not presented directly to the rights-holders.

Other programmatic documents (e.g. WaSH 1999a-d, 2005, 2009c, 2010d, 2011a-2011p) do not use the human rights discourse at all. Until the early 2000s, the use of the human rights discourse was infrequent, possibly due to the relative novelty of the idea of using a HRBAD. It is mainly in the mid-2000s that the human rights discourse is most prominent in the documents analyzed. In this period, there are more frequent references to human rights, both as a rationale for intervening, and as a guiding framework. As of the early 2010s, the human rights discourse once again becomes less prominent in the documents. In the next section, we consider the extent to which UNICEF's strategic and operational documents go beyond the human rights discourse and refer to a HRBAD⁴⁰.

Cultural Rights to guarantee this. Yet, all these references appear in delimited spaces and do not provide any tools for operationalizing a HRBAD, but depict a conceptual and theoretical concern with human rights.

Also the 'Progress for Children' manual (WaSH 2006), adopts the rights discourse as a justification for interventions in the WaSH domain, but does not include the notion of rights or a HRBAD when outlining how progress is measured. Indicators only cover technical and behavioral aspects but do not probe for rights-holders understanding of their rights.

³⁹ The guidebook for teachers on water, sanitation and hygiene for schoolchildren (WaSH 2011c) for example, mentions the right to be involved (2011c: 6), the right to privacy (2011c: 23), and the rights of disabled children (2011c: 41).

⁴⁰ To speak of attention for human rights, it would be sufficient that documents refer to the MDGs or aim to ensure every child's access to clean water. To speak of a HRBAD, this needs to be combined with attention for creating an enabling environment, and, in specific, to the

4.3.2. REFERENCES TO A HRBAD IN STRATEGIC AND OPERATIONAL DOCUMENTS OF WASH

The human rights-based approach to development can be seen as the application of human rights standards and principles to the actual approach of UNICEF. As we showed in section 4.2.1, UNICEF explicitly developed an approach on the basis of human rights principles and standards in its Executive Directive 98-04. In this section we discuss the attention devoted to this HRBAD in strategic and operational documents of WaSH, in order to assess whether this paradigm is likely to influence actual interventions or is a mere rhetorical undertaking.

There is a large number of documents published by UNICEF as a whole in the period 1998-2014 which refers to the HRBAD. Several documents, amongst others the 'Water, Sanitation and Hygiene Strategy for 2006-2015', cite the HRBAD as the first guiding principle for programming and interventions in the area of WaSH (e.g. WaSH 2009d, 2006), and the HRBAD is also mentioned in the Medium-Term Strategic Plan of WaSH (WaSH 2013)⁴¹, which is one of the core program documents of UNICEF. Overall though, references to the HRBAD are more uncommon for the WaSH division. Most documents published on the WaSH webportal cover issues like technical indicators, efficiency, community strategies and sanitation marketing. Mentions of a HRBAD are not only remarkably low in this document archive, but also throughout the website, with there being only one mention of the HRBAD on the entire WaSH webportal (See footnote 27).

Those documents in the online archive which do refer to a HRBAD, mainly do so tangentially⁴², and even for those few documents which extensively refer to the

principles set out in the UN Common Understanding (UN 2003) and the Executive Directive 98/04 (UNICEF 1998).

⁴¹ Two indicators explicitly refer to the HRBAD: "% new CPDs [country program documents] approved by the Executive Board that meet organizational standards for application of a human-rights based approach". (i.e. 82% - no baseline indicator), and "Number of UNICEF country offices and regional offices carrying out thematic analyses such as poverty/disparities, social protection, migration, governance reforms and economic or humanitarian crises affecting MDG outcomes, using a human rights and gender analysis" (i.e. 70 in 2012, 62 in 2006).

⁴² See, for example, the guide toward effective programming for WaSH in schools (WaSH 2007: 50), in which there is only one vague reference to the HRBAD, in the sense that it is advised that teachers in involved schools should ensure that their lessons adequately deal with cross-cutting issues such as human and children's rights. This is however only one mention in a 94 pages document, and no attention is paid to how this should happen in practice.

HRBAD, we should critically consider what exactly is under discussion. The manual on Communication for Water Supply (WaSH 1999), for example, includes a section called “rights-based programming, our new commitment”. However, the language of this section suggests that the concern with human rights-based programming is mainly a discursive one. No actual programmatic changes are foreseen. As the section reads,

Program participants refers to the individuals, families, communities and various partners [...]. Previously, these people were referred to as beneficiary groups, target groups or audiences. However, given UNICEF’s rights-based programming approach, this Manual uses the terminology of participant group rather than target or audience or beneficiary. This better connotes the concept that these individuals and groups are not just passive recipients of communication messages but are actors and stakeholders who play a critical role in the change process (Wash 1999: 1).

Further on in the document, the HRBAD is presented as the idea that no one should be left behind and that also the most marginalized groups should be included, but again no practical recommendations about how to bring this into practice are made. The document highlights only one of the five dimensions which UNICEF sees as fundamental to a HRBAD though, i.e. participation. There is no mention of how duty-bearers and rights-holders should be capacitated, or of any other core components of the HRBAD. Moreover, the document does not succeed in adopting the truly empowering discourse which is fundamental for a HRBAD according to the UN Common Understanding⁴³.

Of all the documents available in the WaSH online archive, the UNICEF Handbook on Water Quality (WaSH 2008) is the only one which pays attention to the role of duty-bearers and highlights the potential for politicization of development at several points, even if working with duty-bearers is a key component of the HRBAD according to the UN Common Understanding (UN 2003)⁴⁴. The handbook states that,

⁴³ An example of how recommendations remain patronizing and instrumental is, “Please remember that your objective is to develop recommended behaviors relevant to people adopting the intervention you are responsible for”, or the section “how to change people’s behavior” which adopt an explicitly patronizing rhetoric (WaSH 1999:5).

⁴⁴ For another exception, see Soap Stories and Toilet Tales (WaSH 2009, 2010). The documents stress the need to “engage those who set politics at the global, national, sub-national and local level to support WaSH in schools”. However, despite referring to duty-bearers, these documents do not refer to the HRBAD.

A right to know goes beyond gaining awareness about the problem and possible solutions to the problem. People should also be informed of the responsibilities of duty-bearers in governments, water service providers and the community to ensure domestic water safety. [...] Knowledgeable communities are also more likely to demand improved service from providers such as water companies or contractors and to challenge politicians and government officials when there are water quality problems in the community. This can sometimes lead to resistance to awareness-raising programs of this nature [on the side of government].

This document is exceptional, as most strategic WaSH documents omit the political dimension of the HRBAD⁴⁵ and focus on the aspect of community planning instead, thereby sometimes prioritizing community approaches to a genuine HRBAD. An example is the discussion paper on sanitation marketing in a CATS [Community Approaches To Sanitation] context (WaSH 2010), which argues that a CATS should incorporate elements from the HRBAD, suggesting that the CATS is seen as the starting point in which HRBAD principles can be mainstreamed, and not the other way around. This is also illustrated by the fact that the language of rights is entirely absent from this discussion paper.

Moreover, few operational documents in this archive go beyond a mere justificatory or descriptive discourse on the HRBAD. An exception is the Programming Guidance for Sanitation and Hygiene Promotion (WaSH 2005a) which offers advice on how to raise awareness amongst community leaders on the right to water or proposing awareness of children's rights as an indicator for program evaluations. This is however the only *operational* document to mention the HRBAD in the WaSH archive. Other documents referring to the HRBAD are strategic or concept papers.

This limited attention for the HRBAD in operational, and to a lesser extent also in strategic documents, is remarkable, considering that the Strategic Plan for 2006-2015 explicitly identifies a HRBAD as the first guiding principle for interventions. According to this plan, the HRBAD paradigm was supposed to inspire all planning and

⁴⁵ See, for example, the manual on the Three Star Approach for WaSH in Schools, which has a very ambiguous position on the involvement of government "While recognizing the government responsibility to ensure that minimum WASH standards are met in public schools, it is important that government bodies and support agencies resist the temptation to overly subsidize the Three Star Approach, especially during the initial stages. Government responsibility in supporting the approach lies less in funding hardware and more in creating a supportive policy environment, program design and institutionalization of daily hygiene activities – which involves training for teachers in hygiene promotion, standards setting, monitoring and certification (WaSH 2013c: 17).

interventions in the period 2006-2015. The fact that this is not always happening however often goes unnoted since there are no monitoring and evaluation instruments regarding the HRBAD.

In conclusion, while the strategic plan for 2006-2015 continues to present the HRBAD as the guiding principle for all interventions in the domain of WaSH, attention for this approach in strategic and operational documents is limited. In some exceptional cases a far-going or profound analysis is made on the basis of the HRBAD, but overall, mentions of the HRBAD seem to suggest a rhetorical commitment more than anything.

4.3.3. HUMAN RIGHTS LANGUAGE AND THE HRBAD IN WASH' ANNUAL REPORTS

Also the annual reports of the WaSH division suggest that human rights and the HRBAD are only mentioned as abstract frames of references rather than being translated into operational guidelines for the WaSH division. When comparing the annual reports of the WaSH division with other documents issued by UNICEF headquarters (e.g. UNICEF 2005, 2007, 2011, 2012a, 2013a), the language of rights as well as references to the HRBAD are even more ephemeral in the annual reports issued by the WaSH division. While there are still some references to human rights⁴⁶ and the HRBAD⁴⁷ in 2006, this report too focuses rather uniquely on the dimension of inclusion of marginalized communities and not on accountability, transparency or the political dimension of the HRBAD.

⁴⁶ The right to water, how to guarantee this, the challenges this poses, what it is, etc are of paramount importance in the 2006 report (See, for example, appendix 3).

⁴⁷ E.g. "UNICEF remains engaged in service delivery in emergencies and for reconstruction, in marginalized communities and regions in keeping with the principle of rights-based programming" (WaSH 2006: iv); "UNICEF programming in WASH addresses the right to water (and sanitation) by advocating for its inclusion in national policy instruments" (WaSH 2006: viii); "UNICEF also provides direct support for marginalized communities and regions, in keeping with the principle of rights-based programming" (Wash 2006: 8); the first guiding principle for UNICEF interventions is the HRBADP (WaSH 2006: 5).

Annual report	Right to water	HRBAD	CATS
2006	5 ⁴⁸	4	0
2007	0	1	0
2008	2	0	24
2009	0	0	31
2010	0	1	48
2011	2	0	35
2012	4	0	33

Figure 4 References to rights, the HRBAD and CATS in WASH annual reports 2006-2012 (own elaboration)

Overall there are few references to human rights and the HRBAD in the annual reports, and as of 2007 some annual reports do not refer to the right to water or the HRBAD at all anymore. This seems to be related to the emergence of a new paradigm for guiding interventions, the Community-Based Approach to Sanitation (CATS), as we will discuss in section 4.3.4⁴⁹. The annual reports show that while the programs developed by the WaSH division are theoretically adhering to a HRBAD, the references to human rights and HRBAD are relatively limited in number, and the number of references which actually operationalizes the right to health or the right to water and the HRBAD, is even more restricted. Instead, other paradigms, like the CATS, are much more prominent in the annual reports. The CATS is however not the only paradigm which the HRBAD has to compete with within the WaSH division. As of 2011 a series of guidance notes published by the WaSH headquarters promote yet a new paradigm: Sanitation Marketing (SanMark). In the next section, we assess how these competing paradigms influence the importance of the HRBAD for WaSH in particular, and broaden the discussion to how contextual factors influence the place of the HRBAD within UNICEF.

⁴⁸ There is however an entire section on the Right to Water as one of the key challenges for 2007, where the notion is very present. Not all occurrences within this section were counted. See appendix 3 for full text of this section.

⁴⁹ Community Approaches to Total Sanitation (CATS) is an umbrella term used by UNICEF that encompasses a variety of community- and demand-led approaches, including Community Led Total Sanitation (CLTS), Total Sanitation, School-Led Total Sanitation (SLTS) and related approaches.

4.3.4 CONTEXTUAL AND ORGANIZATIONAL FACTORS INFLUENCING THE ATTENTION FOR A HRBAD

In the previous sections we have established that, while the HRBAD, and a concern with human rights more generally, have to some extent been present in most strategic and operational documents by the WaSH division, the attention to these issues has been limited and incomplete, and was virtually non-existent in annual reports of the WaSH division. Our analysis also showed that attention for human rights and the HRBAD appear to be mainly a rhetorical matter, and that few references to human rights and the HRBAD are made in operational documents issued by UNICEF in general and by WaSH in particular. Moreover, the overall attention for these issues is waning in the last years. In this section we discuss those factors that can explain this situation, and pay specific attention to the emergence of competing paradigms within the WaSH division. Before zooming in on this element though, we discuss the way in which the HRBAD has been dealt with by UNICEF in general, and what the impact of UNICEF's structures are, to explain the decreasing attention for the HRBAD within UNICEF in general.

SHALLOW COMMITMENT

Before turning to a discussion of what can explain the limited attention for the HRBAD within UNICEF's WaSH division, it is relevant to turn to two elements at the level of UNICEF more generally, which can also explain low levels of commitment to the HRBAD for UNICEF in general.

As was shown in section 4.2.2, there is a deficient understanding of certain core principles of a HRBAD amongst staff members. This can, at least partially, be traced back to the fact that there is currently no well-defined HRBAD policy and no clear conceptualization or operationalization of the approach for the whole organization that reflects the changing environment. While the Executive Directive 98-04, the Program, Policy and Procedure (PPP) manual and the Strategic Plans all foreground the HRBAD, none of these documents sufficiently guide the operationalization of a HRBAD (UNICEF 2012: 109). The PPP-manual and the Medium-Term Strategic Plan support the Executive Directive by elaborating on the mainstreaming of human rights as the basic overarching principle. However, on average they remain too generic to allow for a consistent operationalization.

Moreover, the 2012 Global Evaluation also revealed that HRBAD competencies do not play a big role in staff recruitment or evaluation. HRBAD competencies are considered in fewer than half of the recruitments (UNICEF 2012: 110). In practice, staff members do not systematically participate in PPP training, so there is no guarantee that everyone has as much as a basic understanding of children's rights

and the HRBAD. Staff members who – voluntarily – participate in trainings on the HRBAD are moreover not assessed to see if they grasped the content and know how to apply it. Furthermore, staff members indicated that the training materials – by both UNICEF and other UN agencies – are not sufficiently adapted to allow for sector-specific implementation. There is also little cross-fertilization and resource-sharing on this topic. Interviewees at UNICEF rarely mentioned tools produced by other agencies or on the HRBAD portal, as a source of inspiration for their own work. They did not use – and often did not know – these resources (UNICEF 2012: 120)⁵⁰. Staff moreover indicate that they are swamped with documents and frameworks to integrate and that they tend to rely on their colleagues to get advice on which ones to prioritize, rather than turning to official program documents, such as the Executive Directive 98-04 (UNICEF 2012: 122).

DECENTRALIZED STRUCTURE UNICEF

The previous section suggested that the commitment to a HRBAD has above all been a rhetorical one, without much attention for the practical implications or operationalization of this approach. Another factor which can explain why so little attention has been paid to the operationalization of the approach, and why the approach has not easily found its way to UNICEF's country offices (as we will show in section 4.4.) is related to UNICEF's operational structure, which is strongly decentralized. A concern with the involvement of civil society and with diversity, explains why UNICEF has adopted this decentralized structure which gives greater responsibilities and freedom to the regional, country and provincial offices.

Within UNICEF's structure, not only these regional, country and provincial offices have great autonomy, also the different divisions within the organization enjoy a great degree of self-determination. The WaSH division for example, has the authority to issue communications and publications under its own name. While being an important unit within UNICEF, WaSH appears small on paper though, due to its decentralized nature and its heavy reliance on country offices.

This fractionalization of the organizational structure makes it difficult for information to flow freely and for headquarters to impose any strict rules upon the country offices. Country offices have the freedom to plan their interventions in a context-specific manner, as long as these are in line with the general framework provided by the level of headquarters. There are no strict indicators of what this framework

⁵⁰ The HRBAD Portal (HRBADPortal.org) contains 14 publications (provided by UNICEF) in the domain of water and sanitation, 4 of which are learning/training materials (e.g. on human rights budget monitoring and advocacy).

consists of though, and checks from headquarters on the country offices mainly deal with operational and quantifiable indicators. The fact that also the level of headquarters does not express a strong concern with the HRBAD adds to the difficulty of the HRBAD paradigm trickling down to the level of the country offices.

COMPETING PARADIGMS WITHIN THE WASH-DIVISION

Our research focused on the WaSH division, where the two aforementioned elements are complemented with a third element hampering a genuine commitment to the HRBAD, i.e. the emergence of competing paradigms. Our document analysis showed that documents issued by UNICEF headquarters, and in particular by the WaSH division, continue to frame access to water as a right and adopt a human rights discourse, but that other discourses and paradigms are gaining importance. It is likely that in other divisions of UNICEF or in other organizations, the HRBAD is equally challenged by competing paradigms, albeit other ones.

EQUITY

One of the discourses complementing that of human rights in the WaSH division is the *equity* framework (UNICEF 2012a: 37). UNICEF presents the equity approach and the HRBAD as entirely compatible and mutually reinforcing. As the Equity Training Manual (UNICEF 2011b) reads: “UNICEF’s foundation strategy for a human rights-based approach (HRBA) underpins the equity agenda. Equity cannot be effectively pursued outside of a human rights framework, just as human rights cannot be realized so long as inequity persists. The human rights principles of non-discrimination, universality, participation and accountability are very clearly aimed at equitable opportunities and equitable results for all children. As a result, achieving sustainable progress and results in relation to equity demands a human rights-based approach. In this respect, the concepts of horizontal equity and vertical equity demonstrate how human rights and equity are mutually reinforcing” (UNICEF 2011b). It is unclear what the proposed added value of the equity paradigm is as compared to the HRBAD, since planning under the equity approach is a matter of focusing on one element of the more comprehensive HRBAD. The equity approach is gaining importance though, as can be gauged from interviews as well as policy documents. The Revised Evaluation Policy (WaSH 2013c), for example, while still adopting the human rights language, does not use human rights or the HRBAD as a parameter for evaluations, but instead uses the notion of equity throughout the document⁵¹. While it could be argued that these two approaches are indeed

⁵¹ Example of a parameter: “The evaluation design pays explicit attention not only to the needs and capacities of children, but also to the equity and gender aspects of the program or policy to be assessed”(WaSH 2013c: 14)

compatible, an overly strong focus on the equity approach could hollow out the meaning of a HRBAD.

COMMUNITY APPROACH TO TOTAL SANITATION (CATS)

As we showed in section 4.3.3, annual reports are increasingly referring to the CATS as an indicator of good programming. In Figure 5 we show the basic principles of the CATS, as proposed in the 2008 Annual Report (WaSH 2008).

Figure 4 suggests that, rather than seeking how the CATS and the HRBAD can be integrated and how they can mutually reinforce one another, the HRBAD is being replaced by the CATS. Moreover, where human rights and the HRBAD are mentioned in the annual reports, this is in a rather generic manner which suggests a mere discursive engagement with these notions, whereas operational guiding principles for the CATS are made more explicit, and specific workshops on the approach are promoted (WaSH 2011). When the CATS is first mentioned as a guiding principle in the 2008 annual report for example, there is a clear outline of its core principles (See Figure 5), which was not the case when the HRBAD was introduced. Furthermore, human rights and the HRBAD are not mentioned as priorities, achievements, challenges or outstanding issues in any of the annual reports which were analyzed. The CATS in contrast, is mentioned several

UNICEF's Non-negotiable Principles for the CATS Approach (summary)

1. The aim is to attain total sanitation, i.e. to achieve open defecation free communities by use of safe, affordable and user-friendly solutions/technologies. It implies that the objective of any sanitation intervention is the sustainable use of sanitation facilities (as opposed to the construction of infrastructure). Safe disposal of human excreta includes the management of children's faeces.
2. The definition of 'Communities' (and particularly where community leadership and participation are emphasized) includes a role for schools, health centres, traditional leadership structures, women and girls.
3. Communities are in charge of the change process and use their capacity to attain their envisioned objective. They play a central role in planning with special consideration to the needs of vulnerable groups, women and girls and in respect of the community calendar.
4. Subsidies (in the form of funds, hardware, etc) are not to be given straight to households. Community rewards and incentives are acceptable only where they encourage collective action, total sanitation and are used to attain sustainable use of sanitation facilities (as opposed to the construction of infrastructure).
5. Households will not have externally imposed standards for choice of sanitation infrastructure. Technologies developed by local artisans from locally available materials are encouraged. External agencies provide guidance as opposed to regulation. Where viable, involvement/instigation of a local market with its local entrepreneurs is encouraged.
6. Involves the training of community facilitators and local artisans.
7. Governments' role and cross fertilisation of experience are essential for scaling up.
8. Sanitation as an entry point for greater social change is implicit as a guiding principle.
9. CATS must include hygiene (the definition, scope and sequencing of hygiene components is contextual).

Figure 5 CATS principles (WASH 2008)

times when referring to achievements (see, for example, WaSH 2008, 2010) in a more positive and hands-on manner than any reference to the HRBAD⁵².

The growing importance of the CATS is not only visible in the annual reports of WaSH, but also in several policy documents issued since the late 2000s. Moreover, the CATS manual (WaSH 2009c) is considered a milestone document by several interviewees, but this document shies a human rights discourse⁵³ and does not mention a HRBAD. A CATS and a HRBAD could in theory be compatible in the sense that a CATS leaves room for responsabilization of duty-bearers and for empowering rights-holders to claim their rights. However the role of duty-bearers is much more voluntary in this approach, and the focus is on the responsibility of the communities⁵⁴. A CATS may or may not focus on duty-bearers, depending on the context. This tendency to further depoliticize development is even more prominent in the approach of sanitation marketing discussed below.

SANITATION MARKETING (SANMARK)

As of 2011, the approach of Sanitation Marketing is becoming increasingly important in the work of UNICEF⁵⁵, and in that of the WaSH division in particular. The paradigm of sanitation marketing heavily relies on the social marketing idea as developed by scholars at University of California Davis. It adopts a rational-choice approach which sees individuals not as rights-holders but as profit-maximizers which have to be embedded in a competitive market (see, for example, Jenkins and Scott 2007). The

⁵² Practical references and tools include, but are not limited to, a) a webinar on the CATS which was organized in 2010 and 2012 (None of the 24 webinars on approaches mentioned the HRBAD. CATS is the first one on the list) (WaSH 2010a and 2012b); b) a CATS module in the staff-training curriculum core modules (No modules on the HRBAD) (WaSH 2008: 40, 2011a); c) the incorporation of CATS in more country programs is listed as one of the big achievements of 2011 (nothing on the HRBAD, not in achievements, nor in challenges) (WaSH 2011a); d) the executive summaries of the 2008, 2009, 2011, 2012 reports mention CATS several times (no mentions of a HRBAD in any executive summary); e) two entire pages are dedicated to the advantages of a CATS (Nothing on the advantages of a HRBAD) (WaSH 2008, 2009a); f) CATS as a key to building an enabling environment for appropriate sanitation (nothing on enabling rights-holders or responsabilization of duty-bearers (WaSH 2009a); Upscaling the number of programs that use CATS is an explicit goal of the 2009 report (WaSH 2009a); g) UNICEF should encourage the adaptation of CATS and build capacity in this domain (nothing on HRBAD) (2008: 10).

⁵³ Only one reference to children's rights: the right to sanitation (2009c: 22).

⁵⁴ "Government participation from the outset" is seen as one of the keys to efficient program implementation.

⁵⁵ In other divisions, the approach is referred to as social marketing for example.

basic principle of a SanMark approach is rather straightforward, and not per se in contradiction with a HRBAD. As the sixth Guidance Note (2011k: 1) reads

Encouraging those who can pay to pay also allows for better targeting of public funds towards demand creation and support to those who are truly unable to afford improved levels of service [...] But the market is not a substitute for government's central responsibility in ensuring adequate sanitation to protect public health. Governments need to take the lead, building their capacity to facilitate community-led efforts to stop open defecation and promote household investment, whilst supporting the local private sector to provide improved sanitation services.

The SanMark is presented as a new approach which can increase the sustainability and availability of sanitary installations and which can foster a higher demand for community-wide social change (2011k). There are ten Guidance Notes (WaSH 2011f-2011p) which together offer a detailed guideline on how to fully integrate the SanMark approach into existing approaches, and how to operationalize it in each phase of the programming cycle. None of the Guidance Notes mentions the HRBAD though (even if the tenth Guidance Note (2011o) explicitly deals with the compatibility of different approaches). Neither were any similar Guidance Notes published when the HRBAD was first introduced. Policy documents on an HRBAD remained much more conceptual and abstract than the hands-on implementation guide which these Guidance Notes constitute. The availability of practical implementation tools and guides suggests that there is a more substantial interest on the side of headquarters to see this approach materialize than there is regarding the HRBAD.

This interest in Sanitation Marketing can be understood in light of UNICEF's results-based management strategy. While UNICEF argues that the HRBAD is not fundamentally incompatible with results-based management, the compatibility between results-based management and the SanMark - with its goal of increasing efficiency - is more straightforward than the compatibility between the HRBAD and the SanMark (2011g). The market is considered as the ultimate means to achieve more efficiency, which justifies increased investment in, and collaboration with, businesses, rather than with government actors⁵⁶. There is no stress on governments taking the lead in the Guidance Notes, and instead all attention goes to market principles and individual responsibilities. Note four (2011i: 7) for example argues that fundamental business principles related to profit, risk and investment should also be

⁵⁶ Note three focuses on harnessing the power of the market (2011h: 2) and on investing in business rather than in duty-bearers (2011h: 8).

seen as the building blocks of the new water strategy. The note presents a “do’s and don’ts” list, which mention, amongst others,

“DO take a ‘hands-off’ approach to business”

“DON’T attempt to set prices. Market prices will fluctuate”

“DON’T rush into training events”

Market principles are however not only applied to the supply-side for water provision – which are here uniquely seen as businesses, not as public actors – but also to the demand side. One of the primary goals of a SanMark approach is to “Inform consumers and support sanitation businesses to introduce, advertise, promote, and sell their new products and services” (2011i: 5). This statement also shows a discursive shift from the language of rights-holders to that of consumers, who,

[a]s with any purchase, [...] will weigh costs and benefits in making their buying decision. The consumer decision is complex and involves functional, social and emotional needs. UNICEF can use design thinking as a tool to better understand all of these *consumer* needs and develop the ‘right’ products and services that households will actually want, purchase and use (2011j: 1, own emphasis).

This shift from the language of rights, rights-holders and duty-bearers to the language of goods/services, consumers and service-providers, is referred to by several interviewees as UNICEF’s *users perspective*⁵⁷. It is questionable whether the user is central in this approach though, as the issue of whether or not a household has access to water, is entirely dependent upon market principles, and thus also – and mostly – upon the service providers. As the sixth Guidance Note reads, “[b]y helping sanitation markets function more effectively to serve low income households, governments can achieve the programmatic principles of sustainability and scale.” (2011k: 1). However, there is no mention of any public funds or mechanisms to guarantee free access to the poorest segment of society. Instead, the guidelines suggest laying aside other purchases, loans, subsidized discounts or ROSCAs to facilitate the access of the poorest segments (2011m). The categories of

⁵⁷ Note that this does not overlap with our use of the concept ‘users’ perspective’. This interpretation of a user is in essence one that speaks of consumers, and that makes these consumers subordinate to the dynamics of the market. As one interviewee at headquarters argued when asked about their partnership with corporate actors and how this would serve the goal of sanitation, “our goal is to open up the market to provide internet and other information and communication services to the bottom-billion”.

people considered for actual financial assistance to guarantee their access to water is defined in a very restrictive manner, and the preferred means of securing their access is through loans coming from private partners (2011m: 2-3).

The WaSH division's adoption of the SanMark paradigm has several implications. Firstly, while efficiency and sustainability may improve in some respects under this approach, the framework entirely depoliticizes interventions by considering stakeholders as consumers rather than as rights-holders⁵⁸ and by turning all attention away from government, towards actors' own individual responsibility and to the role of businesses (2011f, 2011g)⁵⁹. Guidance Note four, for example, deals with capacitating local businesses that can become active in the field of WaSH (2011i). There is no similar guidance note on the capacitation of local or national government actors or other duty-bearers. SanMark's exclusive focus on market mechanisms shifts all responsibility away from government. In fact, under this approach, governments can legitimately invoke deficient market mechanisms as a justification for not being able to guarantee the right to water.

Yet, while all responsibility is discursively lifted from the shoulders of governments, some Guidance Notes still mention government, either when referring to what governments can do to support the sanitation market (instead of focusing on what they themselves should do to ensure that the right to water is guaranteed)⁶⁰, or by explaining how SanMark approaches can help governments to reach their sanitation goals (e.g. 2011k). Sanitation is thereby discursively turned into a goal which a benevolent government may set itself, and for the achievement of which it can rely

⁵⁸ E.g. "In this Guidance Note you will learn: a) How to think about households as consumers of sanitation products and services; b) Common consumer motivations, desired product attributes, and barriers for investing in improved latrine designs; c) How consumer market research is used to develop Sanitation Marketing strategies; d) Practical tips and steps for UNICEF in planning and managing consumer market research" (2011g: 1).

⁵⁹ None of the ten Guidance Notes mention anything on government responsibility or on how to engage with governments in a way to hold them accountable. When there is a reference to government actions, these are framed entirely within the SanMark discourse. E.g. how to "reach customers with the support of social marketing by government" (2011h: 6), or how to train government partners to work in the business-management scheme of supply chains (2011h: 8).

⁶⁰ Guidance Note 9 on M&E suggests an entirely new set of indicators evaluating the efforts of government to support market mechanisms (e.g. Are national and sub-national governments increasing capacity to monitor, facilitate and regulate new markets? How do government and other partners support businesses to expand services to low-income households? Is external technical support to government and the private sector demand-driven? etc. (2011n: 4)

on market principles, while the responsibility continues to lie with the rights-holders. This could in some ways be considered as a partial return to the needs-based approach which has long dominated the logic of development cooperation, and which was entirely apolitical. It depoliticizes development and access to water in two fundamental ways: firstly, by promoting household investments in improved sanitation rather than promoting government investments in the same (2011k); secondly, by turning to private sector investments and capacity to foresee improved sanitation facilities.

In this paradigm, also the role of UNICEF and of other development actors changes entirely, as they become promoters of goods on a market. As the sixth Guidance Note (2011k: 3) describes, community-level partners for example should

- a) Help arrange for village-level demand promotion and consumer education events, including community introductions to new products and partner businesses,
- b) Play an intermediary role, informing partner businesses of households who are interested to purchase, and informing interested households of contact details for local partner businesses
- c) Inform local partner businesses of CATS triggered communities,
- d) Help broker and arrange bulk community purchases,
- e) Provide equal access to information on potential size of local demand and equal opportunity for local businesses to promote their products.

UNICEF's role, according to this approach, is to act as an institute for market research and knowledge management⁶¹. The seventh Guidance Note cites some example of SanMark activities which should be undertaken by project partners, including, but not limited to,

- a) foreseeing steps and materials for a village "sales" event to introduce new latrine products, highlight desirable features, good prices, steps to purchase, and how to correctly install and use;

⁶¹ "a) Coordinate, fund and commission key SanMark market research and design activities, b) Policy advocacy for market-based approaches, smarter subsidies, and social policies for sanitation, c) Capacity development and support for government at all levels (and other partners if needed) to implement SanMark activities, d) Knowledge management, research and exchange on key SanMark, CATS and financing issues, e) Monitor results and outcomes for equity through UNICEF MoRES".

- b) invite businesses to a village session or “sales” event to introduce themselves, their products and services;
- c) distribute invitation flyer before a sales event to each family to achieve high attendance;
- d) house-to-house product education, promotion/sales pitch visits;
- e) foresee training tools for local promoters to learn sales techniques, overcome objections, etc. ;
- f) visual steps on how to order a latrine;
- g) provide simple tools for registering new orders, including an ordering receipt to reduce error for sales agents.

It is clear from these tasks that the reference to rights, rights-holders or duty-bearers is entirely absent, and that instead rights-holders are now seen as consumers attending sales meetings, who need to purchase their own latrines.

In short, the ten Guidance Notes on the SanMark approach are illustrative of a paradigm shift at the level of headquarters, away from the language of government accountability, responsibilities of duty-bearers and interests of rights-holders, towards a paradigm which lays the responsibility with the individual consumer and her/his community. While this paradigm is arguably compatible with a CATS approach, its compatibility with a HRBAD is much more ambiguous, due to the explicit strategy of depoliticizing interventions, and due to the absence of a human rights discourse.

4.4. EVOLUTION OF THE HRBAD AT THE COUNTRY OFFICE LEVEL

Having discussed the evolution of, and adherence to, the HRBAD at the highest levels of UNICEF, we now elaborate on the relevance of the HRBAD at the country office level. Our assessment is based on fieldwork in the DRC, but we discuss whether and how these findings can be relevant for other country offices as well, by paying attention to the structures and dynamics which influence the situation in this country office.

We used three types of documents for our analysis: the strategic plans and program evaluations, the reports composing the action research of 2013, and the country program documents. In addition, to these strategic documents, we examined the entire project learning toolkit of the *Villages Assainis* program, the ‘fiches pédagogiques’, the project posters and promotion folders, and the operational plan

of the project (MinSan and MinEdu 2012), and rolling workplans⁶². These operational documents shed light on the extent to which provisions are made to implement the HRBAD on the ground. Moreover, we relied on interviews with staff from the national WaSH division to contextualize our interpretations of these documents, and on documents published by government (like the *inf'eau Congo* bulletin and the Atlas⁶³). On the basis thereof, we evaluate whether a HRBAD inspired the situation analysis, the priority and target setting, the policy and strategy development, the programming and project formulation, the project implementation and delivery, and the monitoring and evaluation.

4.4.1. RELEVANCE OF THE HRBAD FOR THE DRC COUNTRY OFFICE

Overall, the human rights discourse and the HRBAD do not feature prominently in documents of the WaSH DRC office or in interviews with DRC WaSH officers. There are exceptions to this though. While three senior interviewees (CO3, CO6, CO7) explicitly said that the human rights dimension played no role at all in their work, others acknowledged that it was an implicit guiding frame (CO8, CO5), and one argued that human rights considerations were the basis for every decision that was made in the program (CO4). A senior officer of the WaSH DRC division (CO1) confirmed that the HRBAD is an integral part of the program, and expressed surprise about the remarks of some other senior officers that they do not use it in their work.

Yet, from the majority of the reports composing the Action Research of 2013⁶⁴, the human rights discourse as well as the HRBAD is entirely absent. Two reports, tangentially, make one reference to the right to water, none mention the HRBAD⁶⁵.

⁶² For an elaborate discussion of the *Villages Assainis* project, see section 5.1.

⁶³ The Atlas is a *Villages Assainis* project evaluation published by the DRC government since 2009.

⁶⁴ In 2013, UNICEF DRC, with the help of several external partners and consultants, carried out a large scale assessment of *Villages Assainis* its project, which was to serve as the basis for the development of the second phase of the program. This Action Research consisted of fifteen separate reports on different dimensions of the project. Eleven of these reports have been made available online. The country office was not willing to share the results of the other four reports at the time of research. Neither was there a willingness to share programmatic documents which have been developed on the basis of this Action Research (see chapter five for an elaboration).

⁶⁵ The preamble lists the motivation of the Congolese state to set up the *Villages Assainis* project “Pour répondre à la crise du secteur Eau, Hygiène et Assainissement (EHA), et pour faire valoir les droits fondamentaux y afférents, le gouvernement congolais a mis sur pied le programme national « village et école assaini” (WaSH DRC 2013j: 3). In the examples of successful projects, the report on complementary strategies, makes one reference to the

Only the ECRIS study (Wash DRC 2013p, *Enquête collective rapide d'identification des conflits et des groupes stratégiques*) uses the language of human rights more frequently and critically assesses whether all groups have the same access to their rights, whether some rights are not made subordinate to others, whether the Western understanding of human rights is relevant for the local people, etc.⁶⁶ In chapter five, we zoom in on the logic and impact of this study. Other frameworks, like the SanMark frame or the CATS are mentioned more often and more explicitly.

Next to the Action Research, a key strategic document for UNICEF's DRC country office is the Country Program Document presented to the Executive Board of UNICEF headquarters yearly by the country office. This document is not specific for the WaSH division of the DRC, but constitutes a guiding document for the entire country office. The 2012 Country Program Document, like most documents at the level of headquarters which were discussed above, supports the HRBAD and adopts a human rights language at several points, but does so only in abstract terms, and does not identify strategies to implement a HRBAD or to inform people about their human rights (UNICEF DRC 2012). Despite the human rights discourse, indicators only probe for the fulfillment of very basic human needs, there are no indicators for empowerment, bottom-up work, rights-awareness, etc. (UNICEF DRC 2012b, 2012c). This suggests that the engagement with a HRBAD at the country level too is discursive rather than substantial. Notwithstanding some minor indications to the contrary – e.g. the inclusion of eight indicators on good governance and one specific indicator on the need for a human rights analysis in the evaluation matrix for 2008-2012 (UNICEF DRC 2012d) – the support for the HRBAD appears to be a mere discursive one.

This is also exemplified by the fact that country offices are not required to implement monitoring and evaluation instruments which specifically look at the implementation of a HRBAD. Also in the DRC country office, no such instruments are included in the medium-term strategic plan. This means that there is no systematic or structural reporting on, or assessment of, how well HRBAD provisions are implemented, neither by the level of headquarters, nor by the country office. The

Right to Water: « Deux partenaires technique et financier mis en communs leurs ressources pour réaliser le droit à l'eau et à l'assainissement » (WaSH DRC 2013l: 13).

⁶⁶ We elaborately discuss this report in the next chapter when we consider the contextualization and localization of the program.

interest in a HRBAD, which some interviewees in the country office expressed, thus remains largely voluntaristic and is not formalized⁶⁷.

As we demonstrate in more detail in section 5.2.2, references to human rights and to a HRBAD tend to be rather evanescent in operational documents issued by UNICEF's country office, despite the HRBAD formally being one of the guiding principles. In the next section we discuss which factors can explain the country office's low commitment to a HRBAD, and in particular the factors hampering its operationalization.

4.4.2. CONTEXTUAL AND ORGANIZATIONAL FACTORS IMPEDING A COMMITMENT TO A HRBAD

Interviews with WaSH officers at the country level showed that the reasons for non-adoption of the HRBAD differed, with some officers arguing that in their area of expertise there was simply no room for implementing HRBAD principles (e.g. CO6), whereas others expressed an interest in the approach but indicated that they did not receive any training on the issue and hence had no idea how to implement it in their work (e.g. CO2, CO5). All WaSH officers converged that the HRBAD was not an integral part of their training, and therefore not always an integral part of the program.

One junior WaSH DRC officer (CO2) did however not assess this situation as problematic per se because, according to her, a HRBAD was experienced as an alien concept which did not per se resonate with the local realities. As she argued,

... the HRBAD is a very western concept. Here people do not really understand the difference between the right to water and the need for water. At least, you can't assume they do. Even I find the distinction very abstract and difficult, so if you are working with people that have no formal education whatsoever and that live in a country that doesn't really have laws the way we know it, it's really difficult for them to understand what this means [...] there are so many concepts that you could integrate better in our day-to-day work and priorities, like the gender theme and others. These are all concept which we should do more with, but really if you are here, in a country where there is no water, no

⁶⁷ E.g. knowledge of the HRBAD is not a measure for staff performance assessments; one junior officer (CO2) mentioned that she had never reflected on the issue of human rights and that she only received a one-hour workshop on this in all the years that she has been in the office; a senior officer argued that, while rights were important, their practical interventions were based on a needs-based approach; several other officers at the national and international level argued that the HRBAD plays no role in their day to day work, etc.

state structures, no infrastructure, it's rather difficult for a population to think about their access to water in terms of a right, no?

This officer thus suggests that the decision not to operationalize the HRBAD as the practical framework for their daily interventions, can be seen as an instance of responsive planning by the WaSH division in the DRC, and of adapting to the local context. By working on the basis of community-based approaches which do not explicitly work with government and which do not depend on a – non-existing – functioning legal apparatus, the program avoids paralysis and ensures that people can proceed and start sanitizing their villages on the basis of their own resources, rather than being dependent upon an unwilling government. The assumption that one should not introduce concepts coming from elsewhere however, ignores the possibility of making such concepts, like the HRBAD and the human rights more locally relevant and uses the incongruence between the global level and local realities as a reason to effectively refrain from engaging with a HRBAD.

Officers explain that, due to the difficult context in which they work and the logistical and financial constraints which they face, they have to choose priorities in a pragmatic manner, and therefore focus on the fulfillment of people's basic needs, rather than also introducing allegedly abstract rights-related concepts. Therefore, they avoid introducing new and foreign concepts which may at first sight not serve people's immediate and practical needs. However, the choice not to present people with a discourse on their strategic needs and rights, might have negative effects in the long run, in the sense that a focus on strategic issues, awareness-raising and cultural relevance can facilitate the acceptance and durability of practical changes.

So the lagging engagement with the HRBAD partially has to do with a) a lack of information and practical tools for implementing this approach in a daily work environment during their own training, b) practical constraints which necessitate pragmatic decisions about priorities, and c) a perceived incompatibility between the HRBAD and the realities of local rights-holders. There is however also an important element which was not mentioned by most interviewees, but which is implicit when analyzing the country program documents and the communication between the country office and the level of headquarters. Within UNICEF's decentralized structure, there is no requirement from headquarters for the country office to focus on the HRBAD in the yearly evaluations, the required monitoring and evaluation, and the project assessments. This means that there is no incentive for country offices to spend energy on this element.

4.4.3. DISCUSSION

The HRBAD appears to be even less relevant in the documents of the DRC WaSH country office than in those analyzed at the level of headquarters. The HRBAD and human rights language feature less prominently in strategic documents at this level than at the transnational level. Yet, while human rights could arguably still be seen as a –weak – guiding principle in abstract terms and in strategic documents at the level of the country office, they are almost entirely absent from operational documents, which have no provisions on the implementation of a HRBAD. Also program documents issued by partners in this project do not reflect a strong concern with the HRBAD beyond an abstract discursive mention of the concept. This means that there is no automatic trickle-down effect from the paradigms existing at the level of headquarters to those at the level of the country office, nor to those influencing the work of implementing partners in this case.

While we cannot generalize on the situation in other country offices, there are certain dynamics which can explain these low levels of commitment to a HRBAD within the DRC office that could also be at play in other contexts. A key factor explaining the relative absence of attention for the HRBAD at the country level is the shallow commitment to the approach at the level of headquarters. Despite the existence of the Executive Directive 98-04, headquarters does not insist that regional and country offices adopt a genuine HRBAD, include HRBAD-related parameters in their monitoring and evaluation, or foresee training on this approach. This is partially explained by the choice to work in a decentralized manner, but has led to several inconsistencies between discourses adopted at different levels, and between discourse and practice. The focus on decentralization thus also challenges the credibility and relevance of Executive Directives adopted by the highest level of UNICEF. Currently, virtually no efforts are being undertaken to remedy these inconsistencies.

Moreover, the level of headquarters as well as the country office continue to adhere to the logic of results-based management, with its insistence on quantifiable and measurable indicators of change. This is one of the only criteria which headquarters does measure, and it is thus crucial for country offices to work towards these. Considering the difficult context in which some country offices are operating (with geographical limitations, unresponsive governments, financial constraints, etc.), they often have to prioritize in a pragmatic manner, which often means sacrificing long-term strategic goals for immediate gains.

Lastly, the emergence within the WaSH division of allegedly complementary, but de facto competing paradigms, like the Sanitation Marketing and CATS - which are

easier to operationalize, yield more immediate results in the short term, do not require many interventions and have lower standards with regards to accountability and transparency - further compromise the relevance of the HRBAD at the level of the country offices.

Thus, while our assessment of the relevance of the HRBAD at the country level is only based on the DRC country office, the factors explaining low levels of adherence to this approach are relevant beyond this specific case study.

4.5. CONCLUDING REMARKS

In this chapter we discussed the origin, evolution and importance of the HRBAD for the UN in general as well as for the different offices of UNICEF (i.e. headquarters overall, the WaSH division at the level of headquarters and the WaSH division at the country office level). In addition to this, we proposed several explanations for low levels of engagement with this approach, especially in operational terms.

We found that for all levels which were analyzed, there is still a formal commitment to the HRBAD, but that this appears in strategic and conceptual documents rather than in operational documents, and is thus mainly rhetorical. The commitment is moreover stronger at the level of headquarters than at the level of the country office, but even at the level of headquarters, the attention for the HRBAD is diminishing.

Regarding the operationalization of the approach, we found that this too has received more attention at the level of headquarters than at the country level, but that attention for operationalization and implementation has been low throughout and has been decreasing since the mid-2000s. Before this, several UN programs at the level of headquarters (including UNICEF) developed a limited number of hands-on tools and working guidelines on the HRBAD. However, no such materials have been developed lately. While being called working guidelines, most of these tools too remained rather vague though, and few went beyond a reformulation of the UN Common Understanding in more concrete terms. Concrete policy and planning advice was missing from most of these documents.

It is, moreover, unclear and questionable to which extent these tools were adopted and used by officers at the country level, as UNICEF's decentralized structure did not allow for imposition of these operational measures. Also the Executive Directive 98-04 on the HRBAD, which is supposed to be implemented as the organizational policy by the regional and country offices, could not be imposed by the level of headquarters because of this decentralization, and thus remained a largely voluntaristic guideline issued by the executive director (Carol Bellamy) rather than an

actual binding directive. The decentralization thus hampers the consistent adoption of new paradigms and policies and makes it difficult for headquarters to impose anything beyond the strict parameters inspired by results-based management. This is not only the case for the HRBAD, but also for other paradigms. It is more prominent in the case of the HRBAD though, since HRBAD principles are not easily captured in the structures of results-based management, which is much less problematic for approaches like SanMark. Decentralization was introduced to allow for more responsive and contextualized planning though. In chapter six we assess whether this is the case.

Furthermore we found that, next to the decentralization and the mere rhetorical commitment to the HRBAD at the level of headquarters, also the emergence of competing paradigms – which are easier to operationalize and offer more visible results in the short term, but which do not deal with structural and strategic problems – has challenged the commitment to the HRBAD in recent years. So while the HRBAD remains an important guiding framework for UNICEF in theoretical and conceptual terms, it is increasingly being challenged by other paradigms – like CATS and SanMark in the case of WaSH – when it comes to operationalizing and structuring interventions.

The fact that the HRBAD and the equity paradigm continue to be important guiding principles in conceptual terms, while the CATS and SanMark guide the practical interventions of the WaSH division leads to a number of contradictions and inconsistencies. This disconnection means that the HRBAD framework is only an abstract discourse in the minds of WaSH officers on the ground, who received practical training on CATS, or more recently, on SanMark. As one of the interviewees at headquarters argued, “I think human rights-based work is at the core of our programming. The focus is that the service is affordable and of good quality, that it is accessible, that people can pay for it. Those are the main principles in our service provision regarding water supply and sanitation. This is key for the program, meaning that there is a strong focus on equity” (HQ1). This reply shows how the logic of a HRBAD and a SanMark approach are used as if they were interchangeable within this division. In the conclusions to this report, we reflect on how the meaning of human rights and a HRBAD is affected – and in practice hollowed out – by conflating discourses in this manner. In particular, the choice to proceed on the basis of a SanMark or CATS and thus to focus on individual responsibility and market principles instead of duty-bearers and accountability, as a HRBAD would prescribe, risks hollowing out the principles of a HRBAD. In the next chapter, we analyze in more detail how and whether the HRBAD is implemented on the ground, before we turn to a more conceptual discussion on the implications of this situation.

5. THE IMPLEMENTATION OF A HRBAD IN THE VILLAGES ASSAINIS PROGRAM

In the previous chapter we analyzed the evolution and importance of the HRBAD in the UN system in general, and in UNICEF and its WaSH-division in particular. We concluded that the HRBAD remains an important paradigm in discursive terms, even if it is increasingly challenged by competing paradigms, but that there has been little attention for the operationalization of this approach throughout, both at the level of headquarters and at the level of the country office, and both by UNICEF in general and by the WaSH-division in particular. In this section, we go beyond this policy study, and analyze the implementation of the HRBAD, based on an analysis of program documents and on interviews with UNICEF officers, government officials, program partners and local right holders. In this chapter, we assess the impact on the ground of paradigm changes at higher levels. To that end, we analyze the *Villages et Écoles Assainis* program in the Bas-Congo province of the DRC. This chapter first presents the country context and the logic of the program, and then elaborates on the findings from our fieldwork with regards to the HRBAD. The chapter ends with a discussion on the extent to which the HRBAD had inspired programming in this case, and what impact this has had on both the efficiency of the program and the legitimacy of the HRBAD paradigm.

5.1. INTRODUCTION OF THE CASE

The *Villages et Écoles Assainis* program is a program envisioning the provision of clean drinking water and adequate sanitary installations in the rural and peri-urban regions of the DRC. In this chapter we zoom in on the *Villages Assainis* component of the program, rather than analyzing the entire *Villages et Écoles Assainis* program, for reasons of manageability. We acknowledge that it is possible that the rights discourse is more present in the *Écoles Assainis* component, but argue that we should also find it in the *Villages Assainis* component in order for UNICEF to be consistent with its own organizational policy. A majority of rights-holders who are affected by the *Villages Assainis* interventions are never exposed to the *Écoles Assainis* interventions, and a partial implementation of a HRBAD in the latter would thus not be considered sufficient to speak of a genuine HRBAD. Our study only makes claims about the *Villages Assainis* component, and we acknowledge that this may limit generalizability. We address the issue of generalizability by consistently exploring the logic for non-adoption of a HRBAD in the *Villages Assainis* component. This allows us to reflect on the plausibility of other components of the program adopting the HRBA. In this section, we first briefly present the country context in

which the program has been developed, and then elaborate on the origin, evolution and priorities of the program.

5.1.1. COUNTRY CONTEXT

In 'Skimming the surface', De Feyter and Lumbika (2013) present a critical analysis of some human rights-related aspects of the Congolese state. They point out the weakness of the central government, which is, amongst others, visible in the virtual substitution of the state by donor agencies and the scarcity of accountability mechanisms which rights-holders have vis-à-vis government, but also vis-à-vis donors. There is a high turnover of government officials, which contributes to a climate of low accountability. There have also been frequent changes to the constitution and the legal system. These changes typically aimed to bring the constitution in line with the state's obligations under international treaties, but few of these legal changes have been accompanied with the resources required to bring them into effect (UN Country Team 2001: 61).

In 1998, a Ministry of Human Rights was established in response to the human rights violations in the preceding decades. The Ministry developed a National Plan for Promoting Human Rights, but undertook few concrete actions and was eventually usurped by the Ministry of Justice in 2010, leading to much protest from INGOs who were concerned about increasing human rights violations and decreasing attention and resources for human rights concerns (Katende 2010). The UN Country Team lamented that policy-makers across the board do not know the universal or regional human rights provisions, and do not consider them a relevant factor in their policy-making. Especially respect and promotion of children's rights is problematic in the DRC, despite the DRC having ratified several international human rights instruments (UN Country Team 2001: 62).

Also with regards to access to hygienic services and potable water, the DRC does not score well. 47% of the overall population has access to potable water (between 4 and 30 per cent in rural areas), and only 14 per cent nationwide has access to hygienic services (latrines, etc.). While the Bas-Congo scores third highest with regard to access to water in rural areas (46%) and obtains relatively good results for limiting child mortality caused by water-related diseases, it scores particularly low regarding access to basic hygienic facilities, with only one per cent of people living in rural areas having access to these (MinSan 2011). Improving this situation is the focus of the *Villages Assainis* project.

Below, we discuss several international treaties, national laws, and provisions at the level of the provinces, which constitute the background against which the *Villages*

Assainis project takes place. Focusing on how the DRC government deals with the international treaties which it ratified, sheds light on the extent to which it has taken ownership as well as on the extent to which it shows a serious commitment to these matters. In the last part of this section, we discuss the national and decentralized government structures that ought to guarantee compliance with the international human rights treaties.

INTERNATIONAL HUMAN RIGHTS TREATIES

In this section we discuss the human rights treaties signed and ratified by the DRC and the obligations stemming from these. The DRC signed and ratified the main human rights treaties, i.e. the International Covenant on Economic, Social and Cultural Rights (ICESCR, ratified in 1976), the International Covenant on Civil and Political Rights (ICCPR, ratified in 1976), the International Convention on the Elimination of Racial Discrimination (ICERD, ratified in 1978), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, ratified in 1986), the Convention on the Rights of the Child (CRC, ratified in 1990), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, ratified 1996).

The human right to water has been internationally recognized for women in the CEDAW (Art.14(2)) and for children in the CRC (Art.24). Beyond women's and children's right to water, the status of this right is more contested though. There is no binding legal instrument which explicitly recognizes the right to water for all rights-holders as such. The ICESCR for example only implicitly recognizes the right to water. Yet, a clear definition of the human right to water has been issued by the United Nations Committee on Economic, Social and Cultural Rights. This treaty body interpreting legal obligations of State parties to the ICESCR issued a non-binding interpretation of the ICESCR in 2002, affirmed that access to water was a condition for the enjoyment of the right to an adequate standard of living and that it is inextricably related to the right to the highest attainable standard of health (see ICESCR Art.11 & 12) and therefore a human right (UN CESCR - General Comment 15(2)).

This led 122 countries – including the DRC – to formally acknowledge the "right to water" in the General Assembly resolution A/64/292, in July 2010. The resolution reads that,

The Assembly recognized the right of every human being to have access to sufficient water for personal and domestic uses (between 50 and 100 liters of water per person per day), which must be safe, acceptable and affordable

(water costs should not exceed 3 per cent of household income), and physically accessible (the water source has to be within 1,000 meters of the home and collection time should not exceed 30 minutes). Safe and clean drinking water and sanitation is not merely a high priority goal, but is a human right.

The General Assembly declared that clean drinking water is "essential to the full enjoyment of life and all other human rights".

Instruments like the CRC and CEDAW, explicitly lay the responsibility for ensuring the right to water with governments, as is generally the case with human rights. This is relevant when analyzing the operationalization of the HRBAD in section 5.2. Governments are expected to take reasonable steps to ensure that there are no water access distinctions amongst citizens. This is also explicitly mentioned in the CRC's article 24(2) and CEDAW's article 14 (2) on the right to health more generally, which respectively read that,

States parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health ... 2. States parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, (...) the provision of adequate nutritious foods and clean drinking water.

States parties shall take all appropriate measures to eliminate discrimination against women in rural areas to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular shall ensure to women the right: ... (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Also the OHCHR in 2007 defined access to clean drinking water as a human right, which governments ought to guarantee when stating that,

It is now time to consider access to safe drinking water and sanitation as a human right, defined as the right to equal and non-discriminatory access to a sufficient amount of safe drinking water for personal and domestic uses—drinking, personal sanitation, washing of clothes, food preparation and personal and household hygiene—to sustain life and health. States should prioritize these personal and domestic uses over other water uses and should

take steps to ensure that this sufficient amount is of good quality, affordable for all and can be collected within a reasonable distance from a person's home (OHCHR 2007).

Thus, several state obligations regarding the right to water stem from the ratification of these human rights conventions. In a most basic sense, the duty to respect the right to water implies that states must refrain from interfering directly or indirectly with the enjoyment of the right. In order to protect the right to water, states must, moreover, prevent third parties, such as individuals, groups or corporations, from interfering in any way with the enjoyment of this right. The state is thus obliged to adopt all necessary legislation to ensure the protection of the individuals' enjoyment of this right. And, lastly, in order to guarantee the fulfillment of the right, states are obliged to take deliberate, concrete and targeted steps towards the progressive realization of the right to water. The State must act without discrimination using the maximum of available resources, even if capacities or resources may be low. This includes taking positive measures to assist individuals and communities to enjoy the right to water (facilitate), providing adequate education on the hygienic use of water, protection of water sources and methods to minimize water wastage (promotion), and ensuring that individuals or groups have access if, for reasons beyond their control, these are unable to realize the right themselves by the means at their disposal (provision) (CESCR 2002).

Given this extensive international legal framework which the DRC ratified, development actors wishing to proceed on the basis of a HRBAD have a legal basis for doing so. There is no problem of donors imposing human rights standards on a recipient country as the DRC formally acknowledges the right to water, and because of its monist approach to international law⁶⁸ directly inscribes this in its domestic law. There is a common commitment of both the development agencies and the Congolese state (De Feyter and Lumbika 2013). As the next section will show though, the monist approach and the ratification of these international human rights treaties, is not in itself sufficient to trigger change, since often the resources are not made available for implementing these treaties, and the low accountability of government actors is not conducive for the adequate implementation of these treaties either. This means that external actors still spend a lot of resources on advocacy and raising awareness amongst government officials of their obligations under international law.

⁶⁸ In a monist system, international law does not need to be translated into national law it is incorporated and has effects automatically in national or domestic laws once it is ratified (Wiarda 1986).

NATIONAL LEGAL AND POLICY FRAMEWORK

In the previous section we discussed the international human rights treaties signed and ratified by the DRC and some of the obligations stemming from these. In this section we assess how the DRC government has translated the obligations stemming from these treaties and integrated them into its own legal framework, to shed light on how much ownership the state feels over these human rights provisions.

The DRC Constitution of February 2006 mentions the right of access to drinking water, as well as the right to a clean environment. Article 48 states that the “right to decent housing, to drinking water and electricity are guaranteed. Modalities of implementing these rights are determined by the law.”⁶⁹ and “everyone has the right to a healthy environment conducive to his/her full development [...] The State guarantees the protection of the environment and the health of its citizens.”⁷⁰ Article 42 of the Constitution emphasizes the responsibility of the State to protect the youth against any health hazard⁷¹. So far, these articles have not yet been applied by domestic courts however.

At a meeting of Health officials in Katanga in October 2011, it was established that improving the public health and constraining the amount of diseases and deaths related to water pollution would become the focal point of the next policy cycle of the Ministry of Health (MinSan2011a). At this same meeting, the potential of the Villages et Écoles Assainis project as a tool for arriving at this goal was acknowledged. The congress resulted in 22 resolutions, one of which explicitly and uniquely related to water and sanitation. This resolution stated that every project coordinated by the Health Ministry was due to mainstream the right to water, hygiene and sanitation as a transversal theme. Given this strong emphasis on water and hygiene, the *Villages et Écoles Assainis* program became an integral part and central priority of the *Plan National de Développement Sanitaire 2011-2015* (PNDS) and of the *Stratégie de Renforcement du Système de la Santé* (SRSS). The PNDS is the operationalization of the SRSS which provides the strategic guidelines in the domain of Water and Sanitation. The PNDS foresees collaboration between different ministries and with civil society to build on expertise of partners and to foster a

⁶⁹ « Le droit à un logement décent, le droit d'accès à l'eau potable et à l'énergie électrique sont garantis. La loi fixe les modalités d'exercice de ces droits.”

⁷⁰ Toute personne a droit à un environnement sain et propice à son épanouissement intégral. L'Etat garantit la protection de l'environnement et la santé de ses citoyens.

⁷¹ Les pouvoirs publics ont l'obligation de protéger la jeunesse contre toute atteinte à sa santé, à son éducation et à son développement.

shared responsibility for bringing the SRSS into practice. The SRSS defines certain priority areas, which overlap with the priorities of the Villages et Écoles Assainis program, and stipulates that all programs by the Ministry of Health should have a WaSH dimension (MinSan 2011c: 1).

The PNDS and SRSS – as well as the *Villages et Écoles Assainis* program – are managed by the National Directorate for Hygiene of the Ministry of Health (D9 in Figure 6). This is the unit in charge of coordinating and negotiating with UNICEF and other stakeholders in *Villages et Écoles Assainis* program (MinSan 2011c). This unit functions under the ordinances of 10 May 1929, 225/56 of 23 July 1946, and 71/176 of 20 May 1952, which foresee the establishment of a national directorate to oversee the execution of water and sanitation infrastructure works. It is the D9 which also coordinates the sanitation departments of the health ministries at the provincial level (B9) (MinSan 2011b).

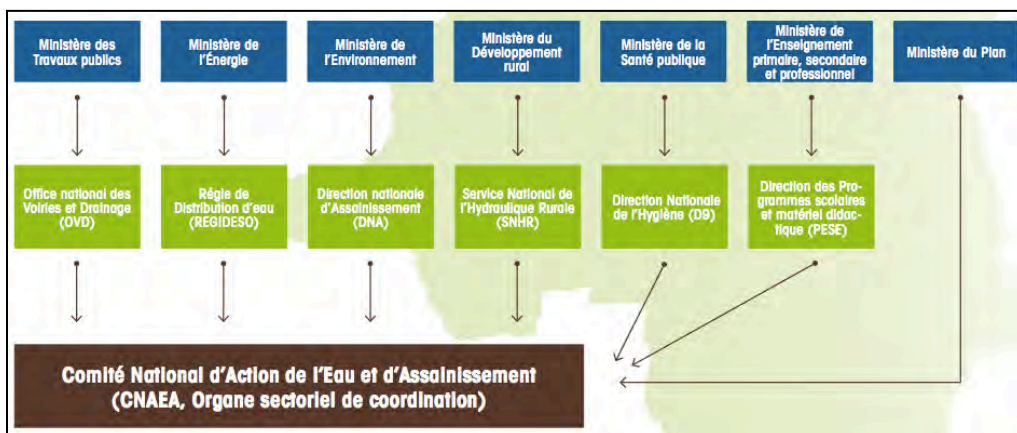


Figure 6 Institutional embedding of the water and sanitation programs (MinSan 2011b)

This directorate D9, and in particular the National Committee for Action on Water and Sanitation (CNAEA)⁷² is also the driving force behind the *Code de l'eau* (Law 13-2010 concerning water), which provides the legal framework for water provision and allows the directorate, and the government in general to act as a coordinator for water provision. The CNAEA was created in 2007 to develop and reinforce the water and sanitation sector in line with the government's priorities and to attract funds for

⁷² As the figure shows, the CNAEA has relations with seven different ministries, which often makes coordination difficult. Its steering committee is composed of government officials and civil servants of these ministries. Next to the steering committee, there is an executive secretariat consisting of experts, several technical commissions and provincial antennae, the CPAEAs.

doing so. The *Code de l'eau*, which it drafted, replaces earlier provisions related to water infrastructure and provision, and is the result of a process which started in 2006 as an inclusive and participatory process encompassing the provinces (MinSan 2010a). The creation of the CNAEA and the *Code de l'eau* suggest an actual engagement of the DRC government with the international legal framework to which it formally adheres. Also the publication of a bi-annual information brochure *Inf'eau Congo* by the Ministry of Health explicitly points out the need for a legal and institutional framework (e.g. MinSan 2010b: 1) to ensure adequate water, hygiene and sanitation to the entire population. These brochures acknowledge government's responsibility to propose this type of legislation, and to do so in a participatory and inclusive manner based on consultations with involved actors and institutions.

Some formal efforts have thus been undertaken to translate the international human rights provisions regarding the right to water to the national legal and institutional context, and the government is discursively acknowledging its role. However, interviewees suggested that none of these legal and institutional provisions at the national or provincial level, are complemented with adequate financial resources which could ensure their actual implementation. This greatly challenges the credibility of these measures.

LOCAL AUTHORITIES

Moreover, whether or not the *Plan National de Développement Sanitaire 2011-2015* (PNDS) and the *Stratégie de Renforcement du Système de la Santé* (SRSS) will have a substantive impact at the provincial and local level depends on the capacity of government officials to translate it in a relevant manner to the realities of local communities and to secure resources for its execution. This raises the issue of the status of local authorities as an in-between actor, i.e. as claimants vis-à-vis their own national government to provide the logistical and financial resources needed to implement the plans made at the national level on the one hand, and as a duty-bearer which has formal responsibilities vis-à-vis the local rights-holders on the other hand.

5.1.2. VILLAGES ET ÉCOLES ASSAINIS

To understand the development and current approach of the program, it is important to understand its origin and structure, as well as the actors that are involved. Also the role of the Action Research of 2013 is discussed in this section because this program evaluation by UNICEF constituted the basis for the revision of the program which took place in 2014. We do not engage in an analysis of the entire *Villages et Écoles Assainis* program for the entire DRC, but instead focus on the *Villages Assainis* component of the project in the Bas-Congo province, for reasons of manageability. While the Bas-Congo is not a focus area of UNICEF's WaSH program – which is more present in emergency areas – UNICEF does actively implement the *Villages Assainis* project in this province too (UNICEF DRC 2014), and used the Bas-Congo as a pilot case when revisiting the project.

ORIGIN AND EVOLUTION OF THE PROGRAM

The *Villages Assainis* program was selected for this research because of the important role UNICEF plays in it. The project has had a long history before UNICEF joined it though. In the early 1990s, the DRC government's division on Rural Health (SANRU) - with the support of USAID (United States Agency for International Development) - created the *Villages Assainis* program, which was aimed at improving access to drinking water, hygiene and sanitation in DRC villages. The focus then was on the establishment of technical norms which villages had to attain in order to be certified 'sanitized'. The program focused mainly on technical parameters and technical interventions (as is illustrated by Figure 7). For political reasons, both the USAID's support for the program and the program itself were discontinued from the late 1990s until 2006. In 2006 the program was relaunched by government under the auspices of UNICEF, which supported the program as part of its focus on Water, Hygiene and Sanitation (WaSH) (UNICEF DRC 2012e). UNICEF, like the USAID formerly, defined its own role as that of a donor and insisted on ownership of the program by the Congolese government. As we will argue below though, this discourse does not reflect UNICEF's actions neither those of government.

The relaunch of the program around 2006 was part of a larger effort by the DRC government to respond to pressure by the international community that the Congolese state should live up to the obligations stemming from its ratification of international human rights conventions. Most projects installed by the DRC government in this period are however not inherently rights-based in terms of their

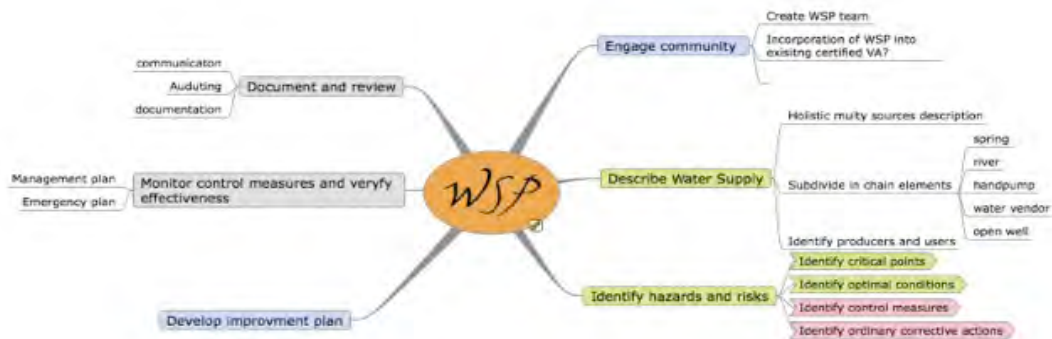


Figure 7 Initial structure of the water safety plans (WaSH DRC 2013n)

design or conduct (De Feyter & Lumbika 2013). UNICEF’s formal adoption of a HRBAD suggested that human rights would play a more important role in this program. Our analysis shows that the discourse and structure of the *Villages Assainis* program have indeed changed significantly since UNICEF became a project partner in 2008, as part of its broader agreement with the DRC to cooperate on issues related to children’s lives.

The objective of UNICEF’s involvement in the *Villages Assainis* program was to revise the government’s water safety plans (WSPs) for the *Villages Assainis* project in the frame of a comprehensive community mobilization process, and to expand the focus to also include schools. The goal of the *Villages et Écoles Assainis* project – and more generally, of UNICEF DRC’s WaSH division – is to implement small cost-efficient changes that deal with water contamination and hygienic problems of rural villages and schools. All initiatives therefore rely on the active involvement of local communities for the planning, implementation and continuation of the program (UNICEF DRC n.d.). According to program documents, interventions within the *Villages Assainis* framework only happen upon the explicit request of a local group, broadly supported by the community. This focus on community dynamics is in line with UNICEF’s preference for community-based approaches (see, for example, UNICEF 2012b).

In the initial phase of the collaboration between UNICEF and the DRC government (2008-2012), this focus of UNICEF was inserted into the government’s program on water and sanitation, as shown in Figure 8. After in-depth analysis of the existing water sanitation plans, the milestones of these plans were matched with the approach of UNICEF, and both programs were formally merged in 2008. WSP

elements and activities were integrated into the flowcharts devised by UNICEF as much as possible, following the principle of “minimum disruption”. As Figure 8 shows, technical aspects, which were at the core of the water sanitation plans, are still important, but are, in theory, no longer at the core of the planning process, which is now based on community-dynamics rather than on technical considerations, due to UNICEF’s influence⁷³.

An analysis of the budget shows that UNICEF’s support for the *Villages Assainis* project resulted in a significant augmentation of the budget for water and sanitation, as Figure 10 demonstrates. A further analysis of the budget shows that UNICEF contributes around 30 per cent of the *Villages Assainis* funding, as opposed to one per cent which is contributed by the DRC government (see Figure 9). The other 69 per cent of the funds are provided through bilateral cooperation, mainly with the UK and Japan, whereby the British DfID contributes 43 per cent of the funds of the program as part of its longstanding commitment to UNICEF’s WaSH program. While some of these bilateral funding agencies - such as DfID - formally adopt a HRBAD, they do, in this case, not play an active role in developing the interventions and delegate this role to UNICEF which coordinates the funding⁷⁴.

This means that UNICEF is de facto also in charge of over 90 per cent of the funding and can weigh heavily on the evolution and structure of the program. The discourse and the structure of the program have thus changed significantly under UNICEF’s influence. In the next section we zoom in on these changes. Consequently, we discuss the structure and involved actors of the program during the first operational phase 2008-2012⁷⁵. In the last section of 5.1.2, we discuss the Action Research, which was used as the basis for conceptualizing the second operational phase 2013-2017. This way, we aim to look beyond quantifiable parameters and to explore the process and interventions in more detail.

⁷³ In 2014, 6220 villages participated in the project, of which 4016 have already gone through all the steps required to receive the certificate of ‘Village Assaini’⁷³. This, on paper, equals 2,5 to 3 million people having obtained access to potable water and sanitary infrastructure since the relaunch of the WSP-*Villages Assainis* project in 2006. The Bas-Congo is, in many respects, one of the success stories of the project with good results on virtually all quantifiable parameters (See MinSan MinEdu 2012).

⁷⁴ DfID could arguably insist that a more genuine HRBAD would be applied, but does not play a prominent role in this program in practice. The critique that UNICEF is not implementing its own policy could thus also be extended to the other project partners who have formally adopted a HRBAD, but do not press for this in the actual interventions.

⁷⁵ The period 2006-2008 was a programming period when no interventions took place yet.

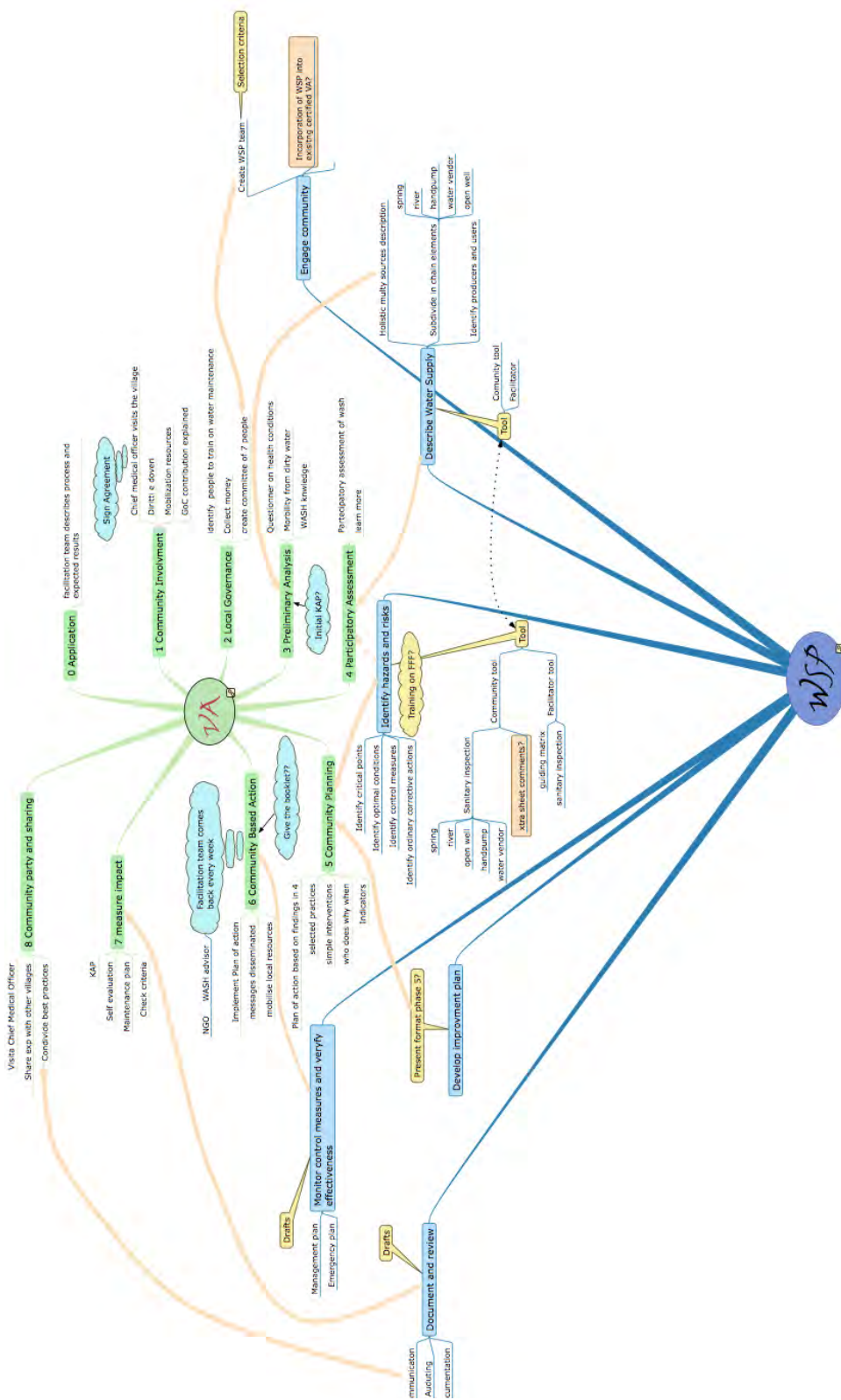


Figure 8 Integration of Villages Assainis and WSP programs (WaSH DRC 2013m)

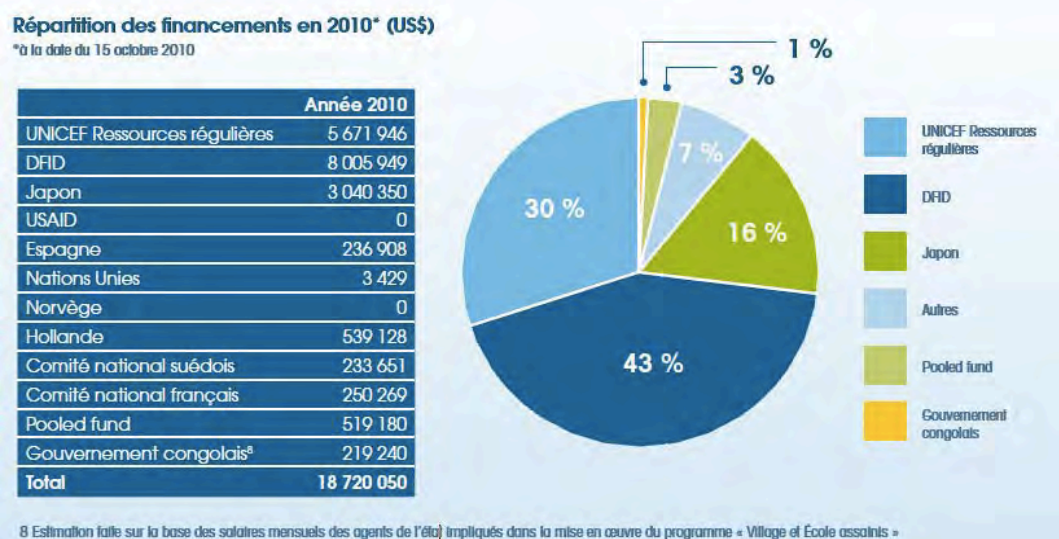


Figure 9 Breakdown of the Villages Assainis budget (Minsan Minedu 2011)

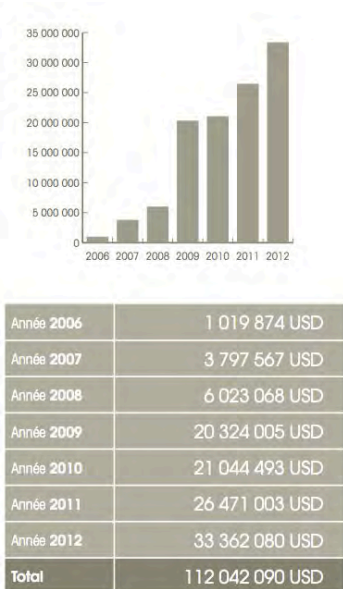


Figure 10 Evolution of the Villages Assainis budget (Minsan Minedu 2012)

STRUCTURE AND GOAL OF THE PROGRAM: A COMMUNITY-BASED APPROACH TO WATER SANITATION

As was demonstrated above, the arrival of UNICEF as a main donor in the program led to the merger of UNICEF’s own goals and priorities with those of the existing *Villages Assainis* program of the DRC government (See FIGURE 8). The original water sanitation plans have been entirely reconceptualized to reflect UNICEF’s adherence to community-based approaches, both in strategic and in operational terms. One crucial change is that, at least in theory, interventions only take place upon the explicit request of a community, and that it is the community that has to take the initiative to move from one step to the next, so as to ensure that the process is broadly supported and is managed and implemented in a manner which is supported by the community, in order to increase local ownership. This approach is depicted in the *pas-à-pas* structure, which shows all steps of the program, and specifies for each step what the role of the community is (see Figure 11). This role goes from making an initial request to join to analyzing their own situation and needs, and from proposing solutions and actions to carrying out these actions with the support of an implementing partner. This structure, which is centered around the contribution and responsibilities of local rights-holders, also has an impact on the roles which are ascribed to other actors in the project, as we illustrate in the next section.



Figure 11 Current *Villages Assainis* process (MinSan MinEdu 2011)

PROJECT PARTNERS

The *Villages Assainis* program is a collaboration between UNICEF DRC's WaSH division, several ministries of the DRC (most notably, the Sanitation division of the Ministry of Health D9 and the regional Health Offices B9) several external partners, and the participating villages. In this section we aim to present the role of each of these partners in the *Villages Assainis* project in the Bas-Congo, even if this structure is utterly complex and opaque, and even if many exceptions from these general rules exist (see also Appendix 5).

UNICEF

On the side of UNICEF, the *Villages et Écoles Assainis* project is managed by the Water, Sanitation and Hygiene division (WaSH) of the DRC country office. This division supports government in setting out the strategic guidelines as well as the operational strategy of the program, and de facto has a large influence on the overall development of the program, due to its expertise in this sector and its financial weight. UNICEF de facto represents most bilateral donors in the program. It does not present itself as an implementing agency, but as a technical partner to government, which aims to support government in gaining ownership over the program. The severe imbalance between UNICEF and the DRC government in financial terms makes this logic hard to defend though, and raises questions about the extent to which UNICEF can legitimately adopt the hands-off approach which it currently has, without jeopardizing the credibility of its assistance - as we will argue in section 5.3.

GOVERNMENT

The *Villages et Écoles Assainis* program is installed by the DRC government at the national level. The *Villages et Écoles Assainis* is managed by the provincial Health Bureau (B9), and implemented by the – governmental – *Bureaux des Zone de Santé* with the assistance of external partners. On the side of government, the most important actors in the *Villages Assainis* program are the Ninth Directorate of the Ministry of Health (D9), the Ninth Bureau of the Provincial Ministries of Health (B9) and the *Bureaux des Zones de Santé*⁷⁶. Whereas the D9 at the national level is the government actor interacting directly with UNICEF to set up the strategic plans, the B9 at the provincial level is the government actor in charge of the operational management of these plans and for the communication between the D9 and the *Bureaux des Zones de Santé*.

⁷⁶ The *Écoles Assainis* program is managed by the Ministry for Education and its subsidiary bodies.

These *Bureaux des Zones de Santé* are presided by a *Médecin Chef de Zone*, and are operationally divided into different *Aires de Santé*, which each have a community worker, a health worker and an assistant, who are responsible for the day-to-day operations in their health areas, such as vaccinations and medical consultations. The *Bureaux des Zones de Santé* are government actors and are the ones managing the project on the ground, but they are not the ones executing the project. This is considered to be the task of the rights-holders themselves, with the assistance of implementing actors. Hence the *Bureaux des Zones de Santé* do not receive material or financial resources in the framework of the *Villages Assainis* project (except for limited contributions towards the purchase of fuels and training materials). The staff of the *Bureaux des Zones de Santé* visit the village to introduce the project after a request for participation has been made, organize trainings and awareness raising activities, and are responsible for the follow-up of the project, but they do not assist on the operational or technical execution of the program. In the current project structure, their role is a facilitating one, whereas the eventual responsibility for execution of the project lies with rights-holders in this program.

Moreover, these *Bureaux des Zones de Santé* are dependent on the provincial and national authorities in financial and logistical terms, but at the same time they are the ones responsible for the sanitation in the villages in their territory. This creates tensions, and a problem of accountability and blame-shifting, as we will demonstrate in section 5.2.

EXECUTIVE SUPPORT

While the rights-holders are considered the main responsible for the execution of the works in the framework of the *Villages Assainis* program, they do receive assistance from NGOs on technical issues, such as engineering and construction matters. Next to technical support, these organizations also channel the material and financial support for the project. So whereas the *Bureaux des Zones de Santé* are in charge of the operational guidance and management, the NGOs assist with the actual execution of the project (WaSH DRC 2013n).

While these partners allegedly are NGOs or have their roots in civil society (MinSan MinEdu 2011: 30) a brief examination of the actual partners in the Bas-Congo shows that at least some of these are private or even corporate actors, such as

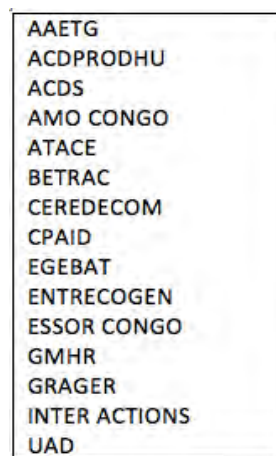


Figure 12 Implementing partners in the Bas-Congo (MinSan MinEdu 2011)

consultancy or building companies (e.g. CETRAC, EGEBAT, ENTREGOGEN, GMHR). This raises questions about their motivation for participating in this project, and in particular about their concern with legitimacy, accountability and social responsibility.

RIGHTS-HOLDERS

The entire structure of the *Villages Assainis* project is structured around the participation of rights-holders who are seen as the eventual responsible for guaranteeing the success of the project. The actual steps of the sanitation project are in theory managed by rights-holders, following the model in Figure 11. Every participating village is supposed to elect a Project Committee (*Comité Villages Assainis*), which consists of a president, a vice-president, a treasurer and an average of ten members. In the first phase of the program, the president was supposed to be someone else than the Village Chief, in order to avoid a situation in which members of the Project Committee would systematically be overruled by the absolute authority which Village Chiefs have. This requirement has been loosened in the second phase of the program though, in order for the committee to better reflect existing social structures. There are however no clear rules on how to elect this Project Committee, nor about what happens in case of conflicts. The role of the Committee has remained the same in the first and second phase, namely to manage the day-to-day execution and follow-up of the project, and to facilitate awareness-raising amongst village members. The committee is responsible for the execution of the project. This structure in practice entails a shift of responsibility for ensuring access to clean drinking water away from government, towards the rights-holders. This challenges government accountability and the potential of rights-holders to claim their rights vis-à-vis duty-bearers.

EXTERNAL PARTNERS

In addition to these actors which have a formal role in the program, there are several ad hoc partnerships which UNICEF has with organizations like ActionAid or the Dutch Technical Cooperation (*Stichting Nederlandse Vrijwilligers*, SNV) which intervene sporadically, for example as consultants, when pilot projects are initiated or when evaluations are made. One of the undertakings for which UNICEF relied heavily on these partners and on external consultants was the Action Research undertaken in 2013.

THE ACTION RESEARCH: OVERVIEW AND ANALYSIS

The Action Research is a comprehensive project evaluation which has been carried out in 2013, when the first phase (2008-2012) of the *Villages Assainis* project had

come to a close. The goal of the study was to get a comprehensive picture of the strengths and weaknesses of the program and to develop the second phase of the program (2013-2017) on the basis thereof. The different reports in the Action Research cover a broad range of issues, ranging from the quality of water to the maintenance of pumps to the willingness of rights-holders to pay for water. Most reports in the Action Research were written by external consultants with a technical background, some of whom temporarily joined UNICEF DRC as staff members. Figure 13 gives an overview of the reports available at the time of research (See also Appendix 6 for a more elaborate overview of findings in these reports)⁷⁷.

Only three of these reports engage with topics related to the HRBAD, i.e. participatory approaches (WaSH DRC 2013h), community dynamics (WaSH DRC 2013j), and local beliefs (WaSH DRC 2013p). Other reports only consider technical issues, and often do not even adopt a human rights discourse in the margin. Human rights concerns are not considered an indicator for success or failure of the program in these reports, and are apparently a non-issue in the transfer from the first to the second phase. Even those reports that look beyond technical issues focus mainly on the CATS and SanMark, rather than on the HRBAD as such⁷⁸.

This near-exclusive focus on technical parameters in these reports is remarkable for a program which formally adopts a HRBAD, considering that an important HRBAD review manual (UNDP 2003: 13) stipulates that HRBAD programs should, “[...] measure subjective elements. To understand how people see their rights and the possibility of claiming them, it is important to measure public confidence in institutions of governance, including among vulnerable or marginalized groups”. While the three reports mentioned above probe for the usefulness of existing tools and approaches in the local context, they do not enquire about structural problems and are mainly geared at seeking how pre-established goals can be implemented

⁷⁷ UNICEF DRC was unwilling at the time of the research to share the remaining reports or programmatic documents on how the Action Research influenced the planning for Phase II. Our assessment of the impact of the Action Research on future planning is therefore based on interviews with UNICEF and government actors rather than on a documentary analysis.

⁷⁸ It should be noted that, at the time of writing, it was not possible to make a comprehensive assessment of all the changes that were implemented in the evolution towards phase two, as the country office did not grant us insight into all the new program documents yet.

more effectively⁷⁹, rather than listening to voices from below, as the UN Common Understanding prescribes (UN 2003).

1. After Action Review - WaSH DRC 2013o <i>(la maintenance des points d'eau "Rapport synthèse des enquêtes action after review des activités de maintenance des pompes manuelles au sein du programme école et village assainis")</i>
2. Approche Participative – de la facilitation communautaire - WaSH DRC 2013h <i>(Recherche-action révision de l'approche participative du programme «village assaini»)</i>
3. Au-delà du SanPlat – des approches alternatives à l'assainissement - Not available
4. Villages et Écoles Assainis base des données - Not available
5. Community wide – l'intégration des villages et écoles - Not available
6. ECRIS – Étude socio-anthropologique - WaSH DRC 2013p <i>"Rapport final de l'enquête ECRIS réalisée dans le cadre du Programme national Ecole et Village Assainis en République Démocratique du Congo"</i>
7. Etude de la durabilité des villages et écoles assainis de la phase 1- Not available
8. Forages Manuels et contrôle de qualité - WaSH DRC 2013g <i>"Rapport final de la mission d'appui au renforcement des capacités en pratique de</i>

⁷⁹ Some of the recommendations to increase the efficiency of the participatory approach (2013h: 19-28) are that facilitators

a) 'keep their promises'. There is however no discussion of how they should do this in those – multiple – cases where they suddenly find themselves without funding, or where practical problems interfere with their capacity to live up to their promises,

b) avoid that some people dominate the group discussion. There is however no attention for conversation/moderation techniques in this report,

c) encourage full community participation. This seems to have been a goal from the start though and seems like a self-evident recommendation to make. No specific measures are proposed.

The overall tone of the recommendations seems fairly similar to the starting point of the *Villages Assainis* approach, namely that the community needs to be broadly implicated. It is hard to discern how this is innovative, or how the re-iteration of these principles will impact upon reality. It is not unthinkable that the mere re-confirmation of these principles will result in an increased attention to these principles, although this is a long shot, and it is plausible that in Phase II – like in phase I – practical constraints will interfere with the operationalization of these principles.

<i>forage manuel</i>
9. Maintenance study - volonté à payer pour l'eau - WaSH DRC 2013i <i>"Capacité/volonté des villageois à maintenir les sources d'eau potable méthodologie et résultats d'enquête"</i>
10. Post-certification et rattrapage - Not available
11. Stratégie de complémentarité - WaSH DRC 2013l <i>"Rapport sur la stratégie de complémentarité entre le programme école et village assainis et d'autres programs wash"</i>
12. Sureté et qualité de l'eau - WaSH DRC 2013n <i>"Water Safety Plans for "Village Assainis""</i>
13. Qualité de l'eau - WaSH DRC 2013m <i>"Water Safety Framework: Preliminary Water Quality Sampling and Analysis Strategy for the 'Villages et Écoles Assainis' National Program"</i>
14. Villages Assainis dans le péri-urbain – Bukavu - WaSH DRC 2013j <i>"Rapport sur la recherche pour évaluer le comportement de la Communauté en matière des besoins WASH en zone Péri urbaine de (Kadutu) et une révision des solutions techniques possibles dans le contexte de l'approche "Village Assainis" Bukavu, Sud Kivu, RD Congo"</i>
15. Étude sur les pièces de rechange des pompes manuels à l'Est - WaSH DRC 2015q <i>"Handpump supply chain analysis and mapping in Eastern DRC"</i>

Figure 13 Overview of action research reports

The only one of these three studies engaging more systematically with local realities is the ECRIS study (WaSH DRC 2013p)⁸⁰. This study acknowledges the need for intervening parties to take into account local realities and priorities of participants⁸¹.

⁸⁰ The introduction reads, 'In order to collaborate with whichever group of people in an efficient manner and successfully, it is important to have an understanding of the social organization of this group of actors and of its norms, values, beliefs, conflict regulation mechanism and political organization'. The introduction acknowledges that programs of development cooperation always take place in a highly complex social environment, and that one needs to understand the ways in which best to interact with people at the local level.

⁸¹ The report's objectives are, a) understanding the functioning and structure of local communities involved in the *Villages Assainis* project, b) identifying strategic groups and

The ECRIS study appears to be more self-critical⁸², in the sense that it acknowledges shortcomings of the program and underlines opportunities for learning from actors on the ground. The report is unique with regards to the attention it pays to issues which can be relevant from a HRBAD point of view, but does not, in itself mention the HRBAD at any point. Yet its structure suggests a continuing interest in elements of the HRBAD by the UNICEF country office. In the remainder of this chapter we analyze in more detail how the HRBAD inspires interventions in the *Villages Assainis* program.

5.2. THE HRBAD IN THE VILLAGES ASSAINIS PROGRAM

Since this chapter is a study on the implementation of the HRBAD, we used the UN Statement of Common Understanding (UN 2003), Executive Directive 98-04 (UNICEF 1998) and UNICEF's five core principles of a HRBAD (normativity, non-discrimination, participation, accountability and transparency) as the basis for developing twelve indicators which we use to structure the findings from our fieldwork. These indicators give a comprehensive overview of the different dimensions of the HRBAD and allow us to assess which elements of the HRBAD are present in the implementation of the *Villages Assainis* program. This analysis is relevant, since we established in the previous chapter that, despite the emergence of new paradigms, UNICEF's WaSH division – at least formally and discursively speaking – still adopts a HRBAD. We discuss each of the twelve indicators below and present a general

influential people who can be approached to mobilize local communities as a whole in the frame of the *Villages Assainis* project, c) structurally analyzing those elements which hamper the development of the Villages et Écoles Assainis program, d) formulating recommendations for [...] phase II 2013-2017 of the *Villages Assainis*, mainly by communication strategies to local sensitivities in order to increase the efficiency of the *Villages Assainis* project.

⁸² The report, for example, acknowledges the extent to which *Villages Assainis* interventions have reinforced the frustration and negative perceptions which people already have of 'development projects' coming from elsewhere: There has not been a solution to the – perception of – fraud at various levels, the quality of the works was not always good, promises were not always kept, people did not feel followed-up not by the Bureau de la Zone de Santé or anyone else, demographic needs were not always considered when installing the infrastructure which in some cases led to conflict, failing systems were not repaired, etc. The report acknowledges that "These negative experiences with the program and its projects reinforced the skepticism of local actors towards foreign interventions" (2013p: 57). These actual negative experiences were complemented with the myths which exist regarding the *Villages Assainis* project: that UNICEF is involved in diamond mining and that the infrastructure is actually for them to do prospections, that the water from the wells is contaminated on purpose, that 'a white person never just gives something to a black person', etc.

discussion on the implementation of the HRBAD in section 5.3, where we also present a visual representation of the extent to which each of these twelve indicators is present in the *Villages Assainis* program, in terms of discursive attention, existence of HRBAD mechanisms and implementation of these mechanisms. This attention to discourse, mechanisms and implementation allow us to distinguish between rhetorical attention for an indicator and actual implementation thereof in practice, and thus to gauge the extent to which the HRBAD is merely adopted as a discourse or as an actual operational strategy.

5.2.1. THE PROGRAM SEEKS TO FURTHER HUMAN RIGHTS

The most basic goal of any human rights-based program is that it should seek to guarantee, protect and realize human rights, and in this case, the right to water. The UN Common Understanding stipulates that,

All programs of development co-operation, policies and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments. A set of program activities that only incidentally contributes to the realization of human rights does not necessarily constitute a human rights-based approach to programming. In a human rights-based approach to programming and development cooperation, the aim of all activities is to contribute directly to the realization of one or several human rights (UN 2003: 2).

Our fieldwork showed that the goal of the *Villages Assainis* program is indeed explicitly presented as guaranteeing rights-holders' access to clean drinking water and sanitation facilities, both in written documents and during interviews. WaSH officers consistently affirmed that the goal of the project is to realize the right to water and sanitation. As one senior officer of WaSH Kinshasa declared,

Traditionally, UNICEF has adopted a HRBAD. That's to say, every child has a right to UNICEF's assistance, in the domain of protection, water, hygiene, et cetera, no matter what. [...] That's to say, if there are needs, UNICEF does everything it can to ensure that every child can have access to water, that every child can have access to sanitation services, access to good hygienic practices. This approach is part of every staff member's mindset. [...] If you want to develop an indicator today for a program or operation, it will be '100% of the children of the DRC have access to clean drinking water'. That's the core of a HRBAD.

Despite the explicit discursive attention to human rights amongst interviewees, the goal of furthering human rights remained a largely abstract one, which did not, in itself, seem to entail many prescriptions for action, and which was mainly adopted as a justificatory discourse for intervening. Some officers argued that a concern with human rights also has immediate tangible effects in the sense that respect for human rights is used as a selection criterion for establishing partnerships with other actors in the field⁸³. As a WaSH officer at the provincial level (PO1) argued,

If we, as UNICEF, support a program, we have to be sure that human rights and women's rights are respected and taken into account. If this is not the case, we don't support the program. This is really something which we are very often reminded of. This is also the case for the *Villages Assainis* program [by the DRC government]. We wouldn't support it otherwise.

Both in the first and the second phase of the program, UNICEF has expressed a strong concern with human rights. Despite this discourse however, the extent to which rights-holders' access to water has increased significantly is dubitable due to problems with the follow-up and maintenance of the project after the certification of a village (see infra 5.2.9). There are only few adequate mechanisms to ensure the operationalization of this concern with human rights, and these mechanisms are not always implemented⁸⁴. It should moreover be remarked that WaSH officers' interpretation of the right to water appears to be limited and can, in many cases, easily be mistaken for a needs-based discourse. The idea is that the right to water only refers to the most basic human need and to the fact that people ought not to die or suffer due to water-related or sanitation-related problems.

This is most obviously illustrated by a remark made by a senior official of UNICEF DRC (CO4) who, after insisting on the importance of human rights for more than an hour during the interview, postulated that,

The approach [HRBAD] doesn't exist officially, no? Our official approach is a needs-based approach of course. That's what we use. We make an analysis of the needs to make the planning, but we keep in mind that human rights should be respected in the sense that everyone in the village should have access. [...] That means that the communities take their own development into

⁸³ This is contradicted by a junior officer (CO2) working on this issue at UNICEF's DRC country office.

⁸⁴ Such as the *Carnets de Villages* to hold government actors and program partners accountable, or the consultation of rights-holders. For an elaboration, see 5.2.

their own hands by developing their own plan for their village, and because of our human rights-based approach we come to their assistance to ensure that everyone has access to water and to ensure that this right is fulfilled.

When asked what the role of human rights is in the program, this interviewee replied,

A: It's the fact of saying that 'every child has right to water and sanitation and hygiene'. That's the philosophy of a HRBAD.

Q: But can we really use the terms HRBAD and 'an inclusive approach' as if they were synonyms? Aren't we missing a whole dimension about the HRBAD if we only talk about the inclusivity and needs?

A: That's what I am saying. They are synonyms! What we use is an inclusive approach, an approach that doesn't exclude anyone. So that's a synonym of human rights. Every child should have access to water and that's how we act.

This markedly limited interpretation of human rights seems devoid of any potentially empowering elements or any references to more strategic needs in the field of water and sanitation. This raises the question of why a human rights discourse is adopted at all, but also about whether the program is actually furthering human rights, since only few adequate mechanisms for doing so are conceptualized and implemented. It might be more appropriate to confirm that the program aims to foresee in the most basic human need to water and sanitation rather than claiming that the program aims to further the right to water and sanitation, even if it discursively claims to do the latter. While this may appear to be a rhetorical nuance, it can have great implications in practice, as will be discussed below.

5.2.2. THE PROGRAM USES HUMAN RIGHTS AS A GUIDING PRINCIPLE IN ALL INTERVENTIONS

This indicator builds upon the previous one and holds that a concern with human rights should not only be used as a justificatory discourse, but should also shape every step of the process during the interventions. The UN Common Understanding (2003) reads that,

Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments [should] guide all development cooperation and programming in all sectors and in all phases of the programming process.

This means that furthering human rights should not only be seen as a goal, but that also the interventions and instruments themselves should be based on the core human rights standards and principles. This indicator of a HRBAD is thus more hands-on than the previous one and requires the incorporation of human rights concerns in the entire planning cycle. We consider the extent to which UNICEF structures its own planning around human rights concerns as well as the extent to which it demands this from its partners.

HUMAN RIGHTS CONCERNS INFLUENCING THE STRATEGIES OF UNICEF'S COUNTRY OFFICE⁸⁵

In a most general sense, human rights concerns lie at the basis of UNICEF's interventions. In practice however, references to the right to water or human rights more generally are scant, and it is unclear how these concerns shape the interventions or instruments in practice.

While discussing the revised monitoring and evaluation criteria for certified villages with an officer of WaSH in Matadi (PO1), the interviewee provided a clear example of the perfunctory manner human rights are dealt with when planning interventions. Forty new questions had been developed to check if 'soft criteria' had been achieved (i.e. non-technical and non-material outcomes). None of these questions referred to human rights or to related issues such as accountability, inclusivity or transparency. Instead, those new monitoring and evaluation criteria, which are considered to probe for soft issues ask for example about the number of reunions which were held, which engagements the community took on, or what knowledge they have about the origin of diarrheic diseases. When pointing out the absence of any reference to human rights from this new evaluation, the interviewee replied "But when you talk of a community participation, rights are part of this. We don't need to mention human rights explicitly"⁸⁶.

⁸⁵ At the time of the research, UNICEF was not willing to share the programmatic documents on the second programming phase which was being implemented as of January 2014. Our interpretations of this second phase in this chapter and the next are therefore based on the information contained in the government's strategic plan, the Action Research and the interviews with staff members in the country office.

⁸⁶ Excerpt from an interview at UNICEF WaSH Matadi (PO1): (no literal transcript due to some interruptions)

Q: Why not include rights explicitly in the program and pay specific attention to this in the evaluation, if the Villages Assainis program formally adopts a HRBAD?

This raises questions about the extent to which human rights concerns are indeed an inspiration for developing concrete interventions and instruments, but also about how officers at the provincial level interpret a HRBAD. Also at the level of UNICEF's country office, monitoring and evaluation criteria did not reflect human rights concerns, neither in the first nor in the second phase of the program. As one of the officers admitted, "No, we didn't focus on this at all when revising the indicators for Phase II".

Also practical training materials of the *Villages Assainis* program do not make any structural effort to translate the notion of human rights to the daily realities of local stakeholders. None of the *Villages Assainis* handbooks mentions anything on human rights⁸⁷, and, instead, only cover the practical knowledge and attitudes and the

A: When we talk of *Villages Assainis*, of course rights feature in that, but we are mostly talking about diseases and how they spread. That is their right. We insist more on the community participation and about how we get diseases. [...]

Q: *I thought that UNICEF's role was precisely to stress the rights dimension. Yesterday some people told us that they knew that they were part of a participatory program, but they were not convinced of the added value of such an approach, and when we asked them if they knew that water and health were rights, no one replied affirmatively. Not one participant had apparently made that link themselves. So if you say that a participatory approach implies the notion of rights, then apparently, this link is not so obvious in practice. So can we in such a context at all speak of a HRBAD?*

A: [laughs] You also have to be aware of which population you are talking to. These are peasants without an education, so of course they cannot think abstract. But in any case, the community-based approach also covers a rights notion. We tell them that they are the ones who decide: they decide what type of well they want and how many. Your community plan is your decision.

Q: *But in such a discourse, does a HRBAD still have any added value for such a program, should we not just call what the Villages Assainis is doing a community-based approach?*

A: (long silence). There are advantages: we give them the power to decide. They are the ones who decide. Before UNICEF was a partner, the works were carried out without the people being involved. This was a directive approach. Today they know that this is their project, that they decide.

Q: *But is the discourse of self-determination the same discourse as the rights discourse? And if not, should we not just abandon the notion of HRBAD?*

A: No, it's simpler than that. They have a right, and because of this right that they should decide themselves. [...] It is more about the participation of the whole community to me, and about looking at whether they have the knowledge to put things into practice to avoid these diseases.

⁸⁷ There is one mention of rights in the Pas-à-Pas training manual (Wash DRC 2013a), but only in the sense that after the initial request, the *Médecin Chef de Zone* has to go to the village to explain participants about their rights when participating in the program, no mentions of human rights, the right to water or strategic needs.

process of how to sanitize the village⁸⁸. On the one hand, this absence of abstract concepts like human rights can be explained by the fact that these are very hands-on manuals. Yet, on the other hand, it is precisely these types of practical tools that could offer a means to translate abstract concepts to people's daily realities. The handbooks moreover have a rather limited interpretation of what participation should look like, which proposes that right holders are in charge of the practical and administrative tasks like financial management, managing stock, promoting hygiene activities, but which does not mention anything on human rights awareness raising, advocacy or programmatic influence (Wash DRC 2013b).

Also the 'fiches pédagogiques' (WaSH DRC 2013f) do not adopt a rights language. These pedagogical files could be used as a tool to educate people about their rights and to make the translation of abstract concepts of a HRBAD to more hands-on elements. Instead, the content of the files is limited to practical issues like handwashing, constructing latrines, using soap, and keeping water clean during transport. The instruction manuals thereby seem to fit a needs-based paradigm rather than a rights-based paradigm, in the sense that they only teach people to foresee in their basic needs, without paying any attention to more structural problems.

The same holds true for the posters and *boîte à images*⁸⁹ of the *Villages Assainis* program, which do not mention the right to water, strategic needs of rights-holders, responsibilities of the duty-bearers or other conceptual human rights issues. There is one exception (See Appendix 4), of a poster which adopts the human rights discourse⁹⁰.

The fact that human rights do not always seem to constitute a specific inspiration for developing instruments and interventions and are often entirely usurped by other discourses, also has to do with the absence of attention for this issue during trainings in the country office. Several interviewees explained that during their training there

⁸⁸ E.g. the different steps of the project (WaSH DRC 2013a), the role and structure of the committee and its different members (WaSH DRC 2013b), the way to select the committee, how to build and maintain a water point (WaSH DRC 2013c), how to construct and maintain a pump, how to finance the project (WaSH DRC 2013d), which material to use for the latrines (WaSH DRC 2013e).

⁸⁹ The 'boîte à images' is a toolkit which implementing partners receive to inform people about the *Villages Assainis* program, and about hygiene more generally. This toolkit consists of several images representing villagers in the midst of doing something and show the desirable and undesirable way of going about daily chores.

⁹⁰ In total, we examined 28 posters and images from current and previous media and education campaigns, covering both the first and the second phase of the program.

was no or little attention to the HRBAD or to how this should inspire planning efforts⁹¹. As a consequence, when asking a junior officer at WaSH DRC (CO2) to describe which elements of the HRBAD have an impact on her work, she replied,

I never really thought about the human rights dimension of what I do, but it's true that I also don't really know if others do anything with this, or if they talk about it or integrate it into their work at all.

Also other officers acknowledged the relative absence of human rights concerns when planning practical interventions. As a senior WaSH officer in the country office (CO7) confirmed,

We asked the DRC government to develop its program in line with UNICEF's philosophy. Specifically with regards to the rights dimension [...] But, it's true that human rights, as such, we don't really discuss it in a structural way here when planning interventions.

The overall awareness of how human rights can or should inform their interventions is thus markedly low amongst UNICEF staff at the level of the country office, even if they formally adopt a HRBAD. There are only few instruments to ensure that interventions use human rights as their guiding principle, and even fewer cases where these mechanisms (like a selection criterion for partners) are implemented. In sum, despite the acknowledgement of the potential added value of a HRBAD in some strategic documents and by some interviewees, HRBAD principles or a human rights discourse do not inspire operational documents. The fact that UNICEF's country office itself is not strongly pushing for a HRBAD in its operational documents, also influences the attention which partners, and in particular the DRC government, pay to this approach.

HUMAN RIGHTS CONCERNS INFLUENCING THE STRATEGIES OF UNICEF'S GOVERNMENTAL PARTNERS

At first sight, the human rights discourse features quite prominently in publications by the DRC government actors involved in the *Villages Assainis* project. The info brochures which the ministry of health publishes (MinSan 2010), as well as the bi-annual bulletin *Inf' eau Congo* consistently use the language of rights and rights-

⁹¹ E.g. interviewee CO6, CO3, CO2 and PO1. As interviewee CO4 argued, he received one specific training on the HRBAD when he started working in 2006-2007 in Lubumbashi, but not after that, while he did ask for this in his 'training plan' (*Plan de Formation*). Most additional trainings are about how to increase community participation though.

holders when referring to access to water, and the role of government is acknowledged and emphasized in these publications⁹². The nature of the responsibility discourse should however be highlighted in the sense that the bulletins suggest that government's responsibility mainly consists of creating a conducive legal and institutional framework, whereas the actual responsibility for guaranteeing access to water is discursively placed with the rights-holders themselves, who should do what they can to guarantee their own access to clean water. The bulletins do not indicate that government is making resources available for guaranteeing the right to water, neither do they mention the government's obligations in this domain. The ubiquitous mentions of government interventions in the *Villages Assainis* program, present these interventions as 'gifts' from the government (e.g. MinSan 2010a: 1), not as a duty which government is taking up, nor do these bulletins specify where the money for these programs comes from. Furthermore, recent publications do not pay as much attention to the role of government as older ones, and have a more superficial use of the human rights discourse than earlier publications (e.g. MinSan 2010e). Increasingly the language of needs and beneficiaries and the language of rights and rights-holders are used interchangeably. This undermines the potential of the human rights discourse.

Also the analysis of the strategic plans of government at first sight suggests that HRBAD principles have been adopted, but reveals a different reality upon closer examination. The last strategic plan (2013-2017) for the *Villages Assainis*, issued by the involved government ministries (MinSan and MinEdu 2013), for example, pays explicit attention to the notion of human rights and to the responsibility of government. This strategic plan is drafted by government – with the input of UNICEF DRC's WaSH section – and is one of the most important planning documents of the *Villages Assainis* program. While the body of the plan consists of specific action recommendations to improve the quality of the water, there is a section "Theories for change" which outlines the conceptual framework of the plan. According to interviews with government officials, this section is based on the strategic documents of, and interactions with, UNICEF DRC. The Strategic Plan states that the first condition for good programming in the WaSH sector is the creation of an enabling environment on the basis of a supportive legal framework which defines the

⁹² E.g. "Initiatives should be stimulated to ensure that people's right to water materializes"; "7960 households have found the resources to bring into practice their right to water"; "The government has the responsibility to create the institutional and legal environment conducive to good WaSH conditions" (MinSan 2010b: 1-3), reference to the right to express an opinion (MinSan 2010c: 3), reference to the right to development (MinSan 2010c: 7), references to 'beneficiaries' as 'rights-holders' (e.g. MinSan 2010c: 2, 7).

roles, responsibilities and interactions of actors (MinSan and MinEdu 2013: 2). The absence of attention for the role of government in this matter is striking, as is the fact that, despite this being the first pillar, there is no elaboration of this dimension in the further development of the Plan, which only foresees concrete measures with regards to the other three pillars: quality insurance, accessibility, and creating demand. So in a sense, we see the same situation here as at the level of UNICEF's headquarters and country office, namely that human rights are seen as a conceptual guiding framework *in abstracto*, but that they are not very present in operational documents and that only few adequate mechanisms are developed for ensuring that human rights are used as a guiding principle for all interventions.

Also the Operational Plan for 2013 (MinSan and MinEdu 2012), which gives an overview of all the activities that are to be developed in the year 2013, does not mention principles of a HRBAD or human rights. However, since this is a high-level synoptic and schematic representation of the envisioned activities which does not go into much detail, it is difficult to assess whether these activities will in practice be rights-based and adopt a human rights discourse⁹³. As far as the document itself shows, the human rights dimension appears to be rather minimal. Neither the general nor specific objectives, nor the priority areas mention any concepts related to human rights⁹⁴, or the problem of a low rights-awareness amongst people. However, the document is arguably congruent with the HRBAD logic in the sense that it stresses the role of duty-bearers in guaranteeing respect for human rights. It is unclear to what extent this document reflects a genuine commitment of government or to which extent it is an instrument that is produced to comply with the demands of financial donors.

We see the same logic in the 'Rolling Workplan' at the provincial level (MinSan Matadi 2013), which is rather synoptic, and which, under the total budget breakdown, has no activities at all which explicitly entail a human rights dimension or

⁹³ Activities and priority areas are only described in terms of output. E.g. organize 3 annual meetings, organize 10 field missions, include 40 members in each committee, etc. There is nothing on the substance or the dynamics of these meetings or committees, which makes it difficult to assess which guiding frame these will use.

⁹⁴ Some of the prioritized actions are the updating and disseminating of norms, directives and instruments in the WaSH sector; support for provincial coordination and functioning; organize intersectional meeting with CNAEA and other partners in the WaSH sector; promote UNICEF's action research; strengthen staff at the D9 and the *Bureau de la Zone de Santé*, etc. Regarding the latter, there is a list of extra trainings which staff members should receive (on the use of communication materials, hygiene, intervention strategies, evaluation strategies, etc). None of these proposed trainings mention any more strategic needs or human rights issues.

which mention the strategic needs of rights-holders. Yet, this document too implicitly acknowledges that the government has certain responsibilities in the field of WaSH⁹⁵. An analysis of the four project evaluation Atlases⁹⁶ compiled by the involved ministries, shows that only one, tangentially, uses the rights language⁹⁷, the others do not make any reference to human rights or the HRBAD⁹⁸. So here the potential of human rights guiding interventions is even absent from the discourse.

Moreover, in practice, most government actors (high-ranking officials as well as *Médecins Chef de Zone*) say that they have not received any information on the HRBAD or on how to mainstream human rights concerns in their work⁹⁹. It is hard to establish whether this is indeed the case though, since UNICEF's DRC office firmly claims the opposite. According to them, the WaSH division organizes periodic trainings specifically on the HRBAD and human rights for *all* its partners. As one interviewee from the country office (CO4) asserted,

[...] in these trainings, there are specific classes and modules on the application of this human rights-based approach. The trainers who teach this course show to all the partners, to the NGOs, to government, to everyone in the room, that as long as every child does not have access to water and basic hygiene, there is no development and no balanced evolution. So they show them *in concreto* why this is important for them.

None of our interviewees had received this training or even knew of anyone who was working along these lines. Also the two *Médecins Chef de Zone* who argued that they had discussed the HRBAD during their general training did not mention any specific HRBAD trainings or any specific modules on how to use human rights as a basis for planning interventions in practice.

⁹⁵ E.g. Strengthening the institutional and technical capacities of partners and local structures, further developing a solid five-year plan, etc.

⁹⁶ The Atlas is a situation report published by government, on the progress which has been made on the *Villages Assainis* program in the past year.

⁹⁷ Five references to rights in a document of eighty pages (MinSan and MinEdu 2010: 3, 44-45).

⁹⁸ The last three Atlases do sporadically refer to 'beneficiaries' as 'rights-holders' though (*les ayant-droits, les détenteurs des droits*).

⁹⁹ Most *Médecins Chef de Zone* agree that they received one initial training, during which there was no attention for these issues, and then some ad hoc follow-up formations, which were organized by the provincial government B9. Most 'soft' training is focused on community participation.

When confronting the interviewee at UNICEF's country office with the fact that none of our interviewees knew of these trainings, the person maintained that,

The rights module is offered to *all* our partners, whether they are an NGO or a government actor, at the national level, at the provincial and at the district level. So in practice, for the WaSH program, I talk about the *Médecins Chef de Zone*, their staff who follow up the program on the ground, but also the partners, such as the inspectors at the level of the provinces and the NGOs, and the partners here at the national level.

Later this interviewee nuanced this by saying that the training is definitely given to the provincial bureau of government (B9), but not per se to every single *Médecin Chef de Zone*, and that the B9 is expected to pass on this training. There is no control or follow-up by the UNICEF's national WaSH office as to whether this actually happens though, which can explain why none of the *Médecins Chef de Zone* had received this training. As the interviewee of WaSH Kinshasa continued (CO4),

We give them the means to organize the trainings which have been decided upon in the yearly action plan, and until we have contrary evidence, we just assume that they do this, and that they do this in the spirit of the program.

Throughout the interview, this interviewee stressed that there are no problems at all with the organization of these trainings and that our concern about *Médecins Chef de Zone* not using the HRBAD or not organizing their interventions on the basis of human rights concerns, is really a non-issue as there are no problems at all in this domain. However, what this person describes as a HRBAD, deviates strongly from what is described in the UN Common Understanding and seems to contain more elements of a CATS approach than of a genuine HRBAD (see section 5.2.6). Given that these two realities seem to be diametrically opposed, it is hard to establish which version is correct. Nevertheless, it is safe to conclude that the fact that the program subscribes to a HRBAD and that the main goal is to further human rights, does not mean that human rights guide all interventions carried out by partners, or that tools (like trainings) which are developed to this end are implemented.

5.2.3. THE PROGRAM CAPACITATES THE STATE TO MEET ITS OBLIGATIONS

The UN Common Understanding states that capacitating the state should be a fundamental part of a HRBAD (UN 2003)¹⁰⁰. In this section, we assess whether and

¹⁰⁰ Programs of development co-operation contribute to the development of the capacities of duty-bearers to meet their obligations and of rights-holders to claim their rights.

how the *Villages Assainis* program undertakes any steps to facilitate this. As the UNDP manual on the HRBAD (2003: 15) specifies, capacitating the state to live up to its obligations should not per se be seen as a politicized undertaking as such.

[the program] should identify the state or non-state actors responsible for promoting rights over the program period - as well as their capacity to meet their obligations and the constraints surrounding their ability to perform, and what support the UN could help provide to strengthen capacity and address constraints.

Actions in this domain show a mixed picture. In a most general sense, the *Villages Assainis* program aims to capacitate the state and the implementing actors, through financial injections and institutional and logistical support to both the involved ministries and to the participating villages. Moreover, providing support for institutional developments is a component of the rolling work plan. A senior officer of WaSH DRC added that, at the level of the country office, most of the work of WaSH is with duty-bearers, and is aimed at improving the responsiveness of government actors and the capacity of government to respond to the rights of the population. Several other elements which seem crucial in a capacitation strategy, are absent from the program however¹⁰¹. Capacitation is mainly envisioned through cooperative relations with the state, which are optimistically aimed at rendering the state more responsive¹⁰². As one WaSH officer (CO8) argued,

We don't use coercion in any case, nor any conflictual methods. But our approach is based on the fact that the government has expressed its engagement, not just before the eyes of UNICEF or the program, but before the eyes of the world, and their efforts are evaluated at regular intervals. So they say what they will do in the next two years, and that is something

¹⁰¹ There is no stress on accountability mechanisms which ensure that funds are not misappropriated. There is no credible pressure on the state to push through reforms in the concerned ministries and involved services. Patronage is discursively condemned, but does not lead to repercussions. There is no credible pressure on the state to augment its own financial contributions. As an officer at WaSH DRC asserted (CO3) "If you look at the resources which are mobilized by the financial and technical partners today, there is about one billion dollar per year for the coming years. But on the side of the government, there is less than 20 million made available for access to water [...] Their budget grows, but it is still small."

¹⁰² The officer for emergency responses lamented that they often even have to pay state actors to merely be present during meetings

concrete which we can check and hold them accountable for afterwards if they did not live up to this. So we try to see how we can support them to make sure that they will fulfill this for the next two-year period.

According to this interviewee, the absence of conditionality or pressure is not problematic, as the government is sensitive to the opinion of the world. Because of this, UNICEF rather encourages declarations in international forums than conditionality of support. As an involved officer declared (CO8),

It [asking them to contribute more] is part of our advocacy, which we try to say every day. Just this morning, in Washington, the UNICEF division for water and sanitation is organizing a forum on *assainissement pour tous*, and we, at the level of the DRC, have sent two government representatives to take decisions regarding water and sanitation. So they will make a presentation on this topic in Washington, where they discuss the engagement and the steps taken by government in this domain. So this is a statement which they make before the eyes of the world, a promise which they make to their own population in this international forum. [...] It is our daily effort to help politicians better live up to the promises made.

So these statements too, are not used as a ground for implementing conditionality, or as a declaration which provides indicators and benchmarks to check if government is indeed living up to its commitments which it made before the eyes of the world. The modesty of the changes which have been achieved by proceeding this way is clear from this statement by a WaSH officer (CO3) though,

A lot of good work has happened and not only in terms of capacity being built, but also in the sense that these institutions have become a little more normalized. To the extent that, if, in some miraculous or distant future, the government started allocating resources to the water sector, the institutions that have been built up, I wouldn't say, would be able to manage them necessarily, but they would be in a better position to manage them than they were five years ago, and that is probably the most realistic government approach which we can hope for today, rather than saying that we will just advocate for more government budget to the water sector, 'cause then, you know, everything will work just fine, because it won't.

The fact that there is not more attention for sound public finance also has an impact on the position of the *Bureaux des Zones de Santé*, who remain entirely dependent on money from donors. This reinforces the belief that money for sanitation projects

should indeed come from UNICEF rather than from government, and there is no expectation on the side of interviewees from the *Bureaux des Zones de Santé* that the state will provide money for this project in the near future.

At the level of UNICEF's headquarters there is more attention for capacitating government in discursive terms, but also there, programs focused on governance are not on the WaSH agenda at the moment. As a senior officer of headquarters claimed,

We are more working on the political commitment. How can we ensure that people who do not have access, gain access? [...] you have given the money to implement the system, but then you leave them and there is no good strong public finance mechanism, so that the public finance is not sustaining the project. [...] Why not shift the paradigm? Why do we not put more energy in making sure that the public finance mechanism is well developed in the country, rather than just putting the money into our project? Because if not, it will continue to be that, "a project". (HQ2)

The fact that a focus on government is not on the agenda seems indicative of a belief that this by definition entails a politicized approach, and that this should be avoided, as we demonstrate in section 5.2.5. In this sense the logic of headquarters and the country office are in line. The capacitation of government mainly refers to providing financial and logistical support to government, but there are only limited mechanisms for ensuring other forms of capacitation (such as accountability and ownership), and these mechanisms are poorly implemented. No significant differences can be observed between the first and second phase regarding this indicator.

5.2.4. THE PROGRAM CAPACITATES RIGHTS-HOLDERS TO CLAIM THEIR RIGHTS

As we argued in section 5.2.3, both the capacitation of duty-bearers and of rights-holders is seen as an integral part of a HRBAD according to the UN Common Understanding. In particular, the Common Understanding emphasizes the capacitation of rights-holders *to claim their rights*. Also other core texts of the UN stress the importance of enabling rights-holders to claim their rights. The UNDP Poverty Report (2000c), for example, stressed the need to support communities to organize themselves to advance their interests. The lack of accountability and the inability of people to claim their rights are seen as major obstacles to reducing poverty in this report. Also the review tool for HRBAD (UNDP 2003: 15) affirms that for the evaluation of a HRBAD,

A key question is whether claims-holders have the capacity to articulate and advocate for their rights as well as to participate in the program process, and [...] the UN system should help strengthen that capacity.”

Also the UNDP’s capacity development resource on the HRBAD (2006b: 34) emphasizes the need to empower claim-holders when stating that,

It is important throughout this process to determine ways to empower claim-holders. If men and women, households and communities are to assert their rights, they must first be knowledgeable and able to communicate effectively with duty-bearers, in order to negotiate for a share of the resources. Awareness of human rights and good communication are essential to the process of asserting rights. Thus, advocacy, learning, capacity development and social mobilization are necessary strategies to pursue human rights.

This guide (UDNP 2006b) goes even further, by stating that a HRBAD should always

- Provide marginalized claim-holders with an opportunity to express their views to duty-bearers, thus increasing their participation in decision-making.
- Strengthen the capacity of claim-holders within a community to make themselves heard by duty-bearers and to participate in and influence decision-making.
- Provide an opportunity for *all* claim-holders in a community to reach consensus on the most appropriate development pathway.
- Provide a channel for a community to express its development priorities to outside duty-bearers, such as government departments or private businesses.

These are only some examples of how important this dimension of capacitating rights-holders to claim their rights is for a HRBAD. This makes it all the more striking that the *Villages Assainis* program pays virtually no attention to this issue, neither in the first phase, nor in the second phase of the program, and neither in discursive terms, nor in terms of operationalization. While it is clear that the *Villages Assainis* program aims to capacitate local rights-holders in terms of improving their access to water and sanitation facilities, we argue that there is scanty attention being paid to the issue of capacitating rights-holders to claim their rights.

Interestingly, a majority of the interviewees at UNICEF DRC indicate no interest for this dimension, arguing that the first goal of the program is to ensure access to water

and sanitation facilities, and not to set up advocacy strategies or workshops to facilitate an awareness of their strategic needs amongst rights-holders. One of the most explicit rejections of this issue came from a senior officer at the WaSH country office (CO4), who claimed,

No we don't talk about claiming rights! [...] You don't have to use this kind of notion in the context of this project. We, for us, in our interventions, we plan and put into practice human rights by ensuring that every individual has access to clean water and to a certain service. That's what rights mean to us, just to make sure that people have access to a service¹⁰³.

While this was one of the most active dismissals of the usefulness of focusing on the empowerment of rights-holders by means of informing them about the potential to claim their right, it is indicative of an overall tone in interviews, which was to a greater or lesser extent dismissive about the usefulness of this idea. Another senior officer (CO7) argued that,

...we don't really put the emphasis on claiming rights. But we install a committee, and we tell them that they are there because they have a right to water. So in theory, this committee can also play a leading role in claiming rights. [...] For example, they know how to contact the *Bureau de la Zone de*

¹⁰³ This idea was stressed many times in this interview (CO4). E.g. in the following excerpt (hesitations and reformulations omitted for legibility)

A: We call the community which we assist 'rights-holders'. For UNICEF, everyone has right to a certain *service*... I don't want this notion of 'claiming rights'... Every rights-holder *has* a right to something... But, you should do this within the limits of what is available in terms of the resources of the WaSH program. That's how I see the notion of rights-holders. The HRBAD is very important for us. [...] It is important for them to be called rights-holders... We tell them that they have right to something, to water, to basic services. But it's not because you have rights that you will organize a protest march in the capital to claim that right, or to come claim them here are UNICEF. That's why I don't want to talk about claiming rights, we don't need people protesting here with posters claiming their rights from UNICEF.

Q. But I'm not talking about UNICEF as a duty-bearer. I am talking about the responsibility of the state, which is not scrutinized apparently?

A. Ah, ah yes, well that's it. But they can't come to the government to just protest or organize some sit in. They know that they have a right, but then what? They can't do that, that's clear. But there, they know that they have a right, because today if you talk to villagers, they will tell you that it has been 20 years that they have been asking for water and not getting it, but they have never gone to the capital to claim that right. They know that they have rights, they know it. They know it very well.

Santé, and when they make a request [...] the *Bureau de la Zone de Santé* has to respond to that, and also has to motivate why they decide the way they do. For example, if they [a village] request to be enrolled in the program, but this is not possible, then the government, or the *Bureau de la Zone de Santé*, has to explain to them why their candidacy was not withheld, directly to them. But it's not as if we tell them [rights-holders] 'hey, if the *Bureau de la Zone de Santé* does not reply or does not motivate its decision, you should go and lodge a complaint'. So the issue of claiming rights is addressed in a more indirect manner, I guess.

In the discourse of this interviewee, the issue of claiming rights was otherwise mostly absent. The interviewee argued that at the core of UNICEF's work there is indeed a HRBAD and that the core of a HRBAD is to ensure that everyone has access to a certain right, but that this should be the result of a demand-driven approach and of the inscription of certain rights into the law, not of a confrontational strategy of claiming rights. This view however does not propose strategies for those cases where a right which is inscribed in the law is not lived up to.

Certain *Médecins Chef de Zone* in contract underlined the relevance of fostering people's awareness of their rights, their strategic needs and the possibilities to act upon this – even if only in the long run,

It is true that people can only know that they have a right, but maybe there is nothing much that they can do with it. [...] Even if they can't do anything with it now, they should still know it, maybe one day, they will be able to do something with it. Moreover, authorities may know that the villages cannot take direct action, but they know that they are becoming more aware, and that they can claim their rights one day. There are also other actors who visit the villages, and who will hear from the people how disgruntled they are, and this is something that the government is still aware of. There are actors from higher government levels, there are NGOs, there is UNICEF, and maybe this is not very frequent, but it happens. And especially in the run-up to elections this is important, because then everyone seeks support. Every candidate passes by the villages then, and then they want to be able to show their face. (MCZ9)

This interviewee too however argued that despite his belief in the relevance of paying more attention to people's rights and their potential for mobilizing for these, he did not usually talk about this in the villages or did not develop any interventions around this in practice, due to time constraints, but also due to the compromised

position of the *Bureau de la Zone de Santé* as a state agent which has to implement a program that would entail a dimension of challenging the state.

So overall, in the context of this program, capacitation is mainly understood as a transfer of knowledge and a fostering of practical skills. There is little attention for structural or non-technical issues, and no focus on what alternatives rights-holders have if the state does not live up to its obligations under international law. In the rare cases where interviewees would acknowledge the usefulness of paying attention to this issue, their interpretation thereof seemed to be rather distant from what is commonly understood as a rights claim. As one officer of WaSH DRC (CO4) explained,

Indirectly we do pay attention to claiming rights in this program. If you say what your problems is and they [*Bureaux des Zones de Santé*] give you a solution, that's a claim, no? But a claim is not a matter of pressuring government here! No. Claiming a right is considered differently in the context of this project. As soon as you tell government that you have a problem and then someone proposes a solution for you, that's a claim.

The underlying reason for omitting this dimension on the side of UNICEF seems to be a pragmatic one for two reasons. Firstly, it is a decision to spend limited resources on infrastructure for water and sanitation rather than on awareness-raising, and, secondly, it is a pragmatic adaptation to working with an unresponsive state. In cases like these, where there is no valid social contract between the state and its citizens, it is not useful to speak of claiming rights, or even of a HRBAD, according to one of the senior WaSH officers (CO3). This interviewee claimed that this would only have very limited added value and would be completely out of touch with local realities. Several interviewees at UNICEF DRC contended that it is more useful to target people's investment of time towards the installation of the actual infrastructure, so as to see a more immediate result, and not depend on the state to respond to a rights claim¹⁰⁴. A senior officer of WaSH DRC (CO1) argued that focusing too strongly

¹⁰⁴ The WaSH division itself does not have programs for improving access to justice and reforming justice, but there is collaboration with other divisions of the country office of UNICEF which do have specific programs on judicial reforms. In addition, in the *Villages Assainis*, they do try to implement principles of justice (i.e. encouraging people to install mechanisms for resolving conflict at the level of the village, applying democratic principles, etc.). The five-year plan of UNICEF though does mention Access to Justice as an important factor in the planning.

on the dimension of claiming rights could foster a sense of disempowerment when arguing that,

People learnt that their action is useless in the colonial time, under the dictatorship, because of development aid just coming as a gift, and now they are implicitly being told again “doesn’t matter if you send the letter or not, nothing is happening anyway”.

This interviewee continued that the program has to put a lot of effort into mobilizing people to carry out activities which have an immediate and tangible result, so that it would be virtually impossible to mobilize them for a much more distant cause like pressuring government or claiming their right vis-à-vis government, where they cannot expect to reap immediate benefits. And that, even if people would do this, a positive response by government would be unlikely. This, according to the interviewee, would reinforce the sense of *attendisme* on the side of rights-holders¹⁰⁵. This concern is shared by some *Médecins Chef de Zone*, who rhetorically asked,

What should they do, raise their hand, and then sit and wait until the governor comes? If nothing happens on that side, it's better that they at least do something, and that they don't just have to wait for their [duty-bearers'] goodwill.

According to these interviewees a focus on the dimension of claiming rights can only become relevant in a later phase, and until then, the focus should be on individual capacities and responsibilities to facilitate access to water and sanitation, which is seen as more efficient and more empowering for rights-holders. This logic is consistent with the neo-liberal turn which seems to inspire many programmatic decisions in the *Villages Assainis* program and which shines through in much of the rhetoric during interviews, in the sense that the focus here comes to lie with individual responsibility and on the depiction of water as a service rather than as something which one can claim from a duty-bearer¹⁰⁶.

¹⁰⁵ She gives an example of a recent strike by nurses who had not been paid for months. Due to this strike, health care provision was unavailable for days, yet the government took no action and eventually the nurses simply returned to their work and families. She added however that this is not only a problem of government and that also on the side of UNICEF, there is insufficient capacity to respond to all demands in a satisfactory manner.

¹⁰⁶ E.g. Several reports in the Action Research mention that part of the problem with the sustainability of the program is that people do not yet see water as a paying service (WaSH DRC 2013o). The head of WaSH DRC consistently refers to the program as a demand-driven

Several country officers argued that a focus on claiming rights is disempowering, in the sense that there are no resources within the program – or on the side of the state - to respond to requests, and an unanswered requests can trigger a feeling of powerlessness. The conclusion is then drawn that one should not envision claims in cases where a response is unlikely to follow¹⁰⁷. Claims are not requests however. They are more structural and entail the notion of a duty-bearer, whereas a request suggests a degree of open-endedness. Franceschet (2004) argues that if people organize and mobilize around a practical issue - and formulate a claim - this is inherently empowering in the long run, even if no immediate reply from duty-bearers follows. The dynamic of the mobilization provides rights-holders with new skills and networks and raises awareness of their strategic needs.

One of the project partners showed that claims for practical issues can indeed be beneficial for rights-holders, even in the absence of a follow-up. In light of the Action Report, UNICEF DRC's WaSH division collaborated with the Dutch Technical Cooperation (SNV) and asked them to conduct several pilot projects integrating findings from the Action Research to develop new intervention strategies. The SNV developed an approach that aims to generate immediate effects in terms of practical needs, as well as empowering people to take action regarding more strategic issues. Their strategy in these pilot villages was to develop people's skills to think about strategic issues and rights, and to formulate claims about these, by organizing around direct practical concerns. They informed people about their rights and what it meant to have a right, and in addition they organized workshops on how to draft a convincing claim regarding practical issues, e.g. *vis-à-vis* the *Bureaux des Zones de Santé* or *vis-à-vis* UNICEF in case of problems with the project. In particular, rights-

approach. The *Villages Assainis* is consistently referred to as the producer in the Action Research report on the water quality (2013n). An innovation officer at UNICEF headquarters (HQ2) argued that "by working with the big companies, we will be able to use their networks and platforms, we will be able to provide internet service and information and communication services for the bottom billion *consumers*. So this notion of emerging markets and being able to guide all of these partners to providing services to this group of bottom billion *consumers*."

¹⁰⁷ 7 out of 8 committees which say that they did present a request regarding the *Villages Assainis* program say that it was not explained to them that they were ought to take matters into their own hands, but that, instead, the Bureau de la Zone de Santé promised that they would do something about it, so that they decided to just wait until the Bureau de la Zone de Santé would take action. This was, for example, the case in one village, where the president says that they are not encouraged to think about alternatives which do not require a certain material which they do not have or to find their own material, and where people say to just wait in reaction to the promises made by the Bureau de la Zone de Santé.

holders were taught how to motivate a claim, how to conduct surveys on a small scale to obtain data to substantiate their claim, or how to propose concrete solutions and interventions. The SNV interviewee argued that people were very motivated to come to workshops on how to write claims on practical issues (e.g. write a request to obtain a second handpump), because they saw the relevance thereof for their daily lives. Since they were presented with a rights discourse as well during these workshops, people also came to think of this second pump as their right. Additionally, they developed transferable skills during these workshops, which could for example be used to formulate human rights claims as well. This initiative shows how the dimension of claiming rights – a crucial part of a HRBAD – can be implemented in a locally relevant manner and through a focus on immediate practical needs. At the same time though, the SNV interviewee warned for implementing this strategy while not adapting the entire program structure to accommodate these claims, when suggesting that dealing with an unresponsive partner for too long will in the end also demotivate people.

We saw that in some villages people actually were capable of doing this. But the problem that we saw then, is that the *Villages Assainis* program actually did not foresee any means at all to respond to this [...] You see, in these villages people understood the program, they understood the message, and they took it into their own hands, had good community dynamics, but no reaction followed. So what do you think they will do next time there is a problem? Nothing. Nothing at all. This set-up is just disempowering people in its current shape. They were able to show to *Bureau de la Zone de Santé* that they were entitled to a second pump and that they merited support. They had the whole plan ready. But they were not heard. There are no mechanisms to ensure that their voices are heard and that requests are met.

It is unclear though whether this experience of the SNV inspired the eventual development of the second phase at all, as interviewees did not spontaneously mention the dimension of claiming rights when discussing the second phase. Continuing to ignore this dimension of a HRBAD limits the potential for structural and systematic change and gives the state *carte-blanche* about whether or not it wishes to live up to its commitments under international human rights law.

5.2.5. THE PROGRAM REPOLITICIZES DEVELOPMENT THROUGH A FOCUS ON STATE RESPONSIBILITY

This indicator is based on the UN Common Understanding's stress on capacitating rights-holders to claim their rights and duty-bearers to fulfill their obligations, as well as being a widely cited advantage of the HRBAD in literature (see, for example, Gready 2008). Moreover, also UNICEF itself acknowledges that weak governance, political instability and a poor legal framework are factors that challenge the implementation of a HRBAD because they lead to interrupted funding and challenge state accountability (UNICEF 2012: 106). In this section we analyze both the willingness on the side of UNICEF to politicize its interventions, and the reaction of government actors to this.

POLITICIZATION BY UNICEF'S COUNTRY OFFICE

The issue of politicization is entirely absent from the discourse of UNICEF WaSH officers in Matadi and Kinshasa as well as from the level of headquarters. With the exception of two senior officers (CO1, CO8), none of our interviewees at UNICEF spontaneously mentioned government actors, and one of the two interviewees who did, argued that there was no problem, by stressing the goodwill of government, rather than existing problems of accountability. Interviewees justified their reluctance to politicize development and to hold government accountable by arguing that UNICEF is present in this program as a partner of government, offering technical and financial support, and that it can therefore not take on a confrontational attitude. Instead, they adopt a discourse of shared responsibility, arguing, for example, that,

Our fight is to ensure that these people have access to their rights. So that's why the project starts with a demand from the community. Then there is a response from the duty-bearer who says that they will intervene with material and help to facilitate the process of sanitation. We facilitate a process of coordination to make sure that the rights of these people are respected. [...] the shared responsibility between the government and the rights-holders is crucial. (CO8)

This quote is illustrative of the fact that the program places as much responsibility for guaranteeing access to water on the shoulders of rights-holders as on the shoulders of duty-bearers. This is even more explicitly proposed by a senior officer (CO4) who argued that,

Of course, there is the constitution of this country that says that everyone has a right to a place to stay, to water, and so on. If the constitution says this, that doesn't mean that there also has to be someone that takes the responsibility for guaranteeing this to everyone [...] It's they [rights-holders] who have to solve their problems, it's nothing to do with others doing it for them. *They* know their problems, not anyone else. *They* have to think about a solution, not anyone else.

Government's responsibility in this view consists mainly of providing the legal framework and regulations for other partners to operate in the domain of WaSH and for rights-holders to realize their own right. According to one of the DRC WaSH officers (CO3), this vision is also inspired by pragmatic concerns, and in particular by the lack of sufficient resources of the *Villages et Écoles Assainis* program and the existence of a rather unresponsive government. This interviewee argued that focusing on what the state can do would be inappropriate and counterproductive in this context,

Placing the burden or the responsibility with the village is probably a recognition of the fact that the government's ability to deliver on those promises or those obligations is weak. The [governmental] Health Offices have no resources to guarantee access to water to the village, not even to the ones in the *Villages Assainis* program, let alone to others. [...] So yeah, I think that within that context, you have to prioritize, because if you don't, you risk having something that is really not sustainable.

This suggests that, rather than pushing government to take its responsibility, a more pragmatic strategy is adopted by omitting the entire dimension of government responsibility altogether, both in terms of discourse and in terms of mechanisms for installing this. There is no significant difference between the first and second phase of the program here. Avoiding politicization or a discourse of government responsibility seems to be a baseline of the program. As a senior officer of the WaSH division (CO1) raised,

I don't know if you read Freire on liberation [...] that's an inspiration for our thinking. It's about awareness-raising without being politicized obviously, because it is a program with the government.

According to UNICEF officers, this alleged partnership and collaboration with government makes it difficult to pressure government to take on its responsibility. The approach is thus pragmatically aimed at capacitating government rather than

repoliticizing development (see also 5.2.3). The discourse of interviewees shows a strong belief in the idea that the mere existence of adequate regulations constitute government's part of the social contract, without there per se being much attention for the question of how and whether these regulations are implemented and how and whether they can be claimed. This is illustrated by the statement of a senior officer at UNICEF Kinshasa (CO8).

We are trying to influence politics to regulate the sector. For example with regards to hygiene, there is a policy and we try to facilitate that such a policy is also installed with regards to water and sanitation. [...] Only then can we ensure that government interventions will always follow certain standards, and that they will not do one thing in a sanitized village and another in another village.

So when speaking of instruments to guarantee that people have access to water, sanitation and hygiene, this interviewee mainly refers to the existence of adequate regulations, rather than to actual planning tools or a mechanism of conditionality that could be invoked when government actors at lower levels and implementing partners do not take up their responsibility. This is indicative of a 'soft' strategy. As the interviewee confirmed,

We try to raise awareness amongst government actors that there is a number of obligations which they have, and that they have to fulfill with regards to human rights. So we, at the United Nations, collaborate with many governments to help them bring these principles and obligations into practice so that we can help them to apply them. [...] So we have to make sure that as many elements as possible become inscribed in the laws of this country. But the effort is somewhat slow, in the sense that the administration itself is quite slow.

This shows clearly how dependent UNICEF is on the goodwill of government. As one senior officer of UNICEF's DRC office (CO4) argued,

Of course, the state should put more resources at the disposal of this program. We know that, and the government also knows it. But probably they are limited because they don't *have* sufficient resources. But there are frames, at the regional and international level, where the international community asks the government to augment the budget for water and sanitation. There is for example the Africa Water Week, where the government participates in the discussion and promises these things. And we as UNICEF just try to support the

goodwill that exists at the level of the state. I cannot say if this is sufficient or not. There is more than two million dollar, and more and more water points are being constructed. So there is a goodwill, but maybe the limited resources jeopardize it.

This absence of attention for state responsibility is also present at the highest level, as a senior officer of the WaSH section at UNICEF's headquarters (HQ2) stated when describing the role of rights-holders and duty-bearers in WaSH program,

If they [rights-holders] want to go and buy a Coke, they just go and buy a Coke. If they want a phone, they just buy it. So why would they buy these things but not water? [...] The government has the responsibility to provide the water to the population, but the government sometimes faces some challenges to maintain the system, and if they do not have money to maintain the system, there is an issue of sustainability. How can you sustain the level of service if you do not have the money for it? So you need money to make sure that this service keeps going. It's like buying a car. If you don't pay for your car, it will be taken from you. So those are the responsibilities that each one has to have.

This is indicative of the growing importance of market-based approaches, but also of a depoliticization of development rather than a repoliticization on the side of UNICEF. In the next section we discuss what the effect thereof is on government's own discourse regarding this issue.

POLITICIZATION IN THE DISCOURSE OF POLICY-MAKERS

Remarkably enough, government officials from the Ministry of Education and the Ministry of Health themselves used the language of government responsibility more consistently than UNICEF staff during interviews, but often added that, due to financial and logistical constraints, the government could not take on this responsibility and was dependent on external partners to act in this domain. Moreover the language of state responsibility was used alongside the language of goodwill. During an interview with a health ministry official working with the *Villages Assainis* program (NG1), the interviewee mentioned the '*volonté*' of government eighteen times in response to a question about the reasons why so little money is currently invested in the program, thereby stressing that the goodwill is there on the side of government, but not the financial means, and that this is the *responsibility* of external partners, to foresee these means. This is striking because one of the goals of the HRBAD is precisely not to have rights-holders dependent on the goodwill of

government but to empower them to make substantial claims when the duty-bearer does not take its responsibility.

POLITICIZATION IN THE DISCOURSE OF THE BUREAUX DES ZONES DE SANTÉ

While a senior officer in charge of training at UNICEF Kinshasa argued that *every Médecin Chef de Zone* receives twenty days of training on the HRBAD (see supra), none of the interviewed doctors says to have been presented with any critical reflection on the political dimension of the program during their training. So UNICEF shies the language of government responsibility, not only at the national level, but also when training lower level implementers, which makes it dubitable if the message about political responsibility ever reaches right holders. When discussing this problem with one of the *Médecins Chef de Zone* in the Bas-Fleuve (MCZ9), he pragmatically replied,

Well, you can't be on both sides at the same time, can you? We first have to show them [rights-holders] what they can do. However, it's not that we don't think about this, and that is why I said that there should also be formations which tell them that the access to water is a right, a human right, and that if we don't have the capacity to give this to them, that it is indeed a duty of the government to give them this. So it's not really a paradox, we are a government agency, but our goal is also that human rights would be respected. We just have other means of talking about this and trying to achieve this. [...]

This was one of the only two *Médecins Chef de Zone* to explicitly acknowledge the responsibility of government to guarantee the right to water. His remark about the difficult position of *Bureaux des Zones de Santé* hints at the difficulties of adopting a politicized approach to development when working as a partner to government actors, which in practice means that the political dimension is easily relegated to the background, in favor of more practical and technical concerns.

One of the adverse consequences of this lack of attention for the state's responsibility is that rights-holders' awareness of this issue is markedly low, with most interviewees showing no understanding of the notion 'duty-bearer' and some identifying UNICEF or private actors as the duty-bearer¹⁰⁸. As the treasurer of one of

¹⁰⁸ The treasurer of a village in the Bas-Fleuve, when asked what they would do if the support of the Health Office were to stop at some point, first argued that they would try to manage the project themselves. When asked if she felt that there was anything else they could do, or

the sanitized villages replied when asked where they would go to in case of problems with the water provision, “Where to go to? The state? To Perenco of course, the company is closer to us than the state, and they know our needs better”¹⁰⁹.

In conclusion, we see that a politicized discourse is virtually absent from UNICEF’s rhetoric at all levels, as well as from the discourse of implementing partners. This is related to the alleged difficulty of overtly politicizing interventions which take place in the framework of a collaboration with government. This raises questions about whether the interventions can still be referred to as a HRBAD at all. This question is elaborated upon in section 5.3.

5.2.6. THE PROGRAM SEES PARTICIPATION BOTH AS A MEANS AND A GOAL

According to the Common Understanding of a HRBAD (UN 2003), people should be seen as key actors in their own development, and

... every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, economic, social, cultural and political development in which human rights and fundamental freedoms can be realize.

The centrality of the participation principle for a HRBAD is also emphasized in the Common Understanding, and in other strategic documents on the HRBAD which argue that interventions should not only seek to expand people’s choices and capabilities but should also, and above all, be about the empowerment of people to decide what this process of expansion should consist of (UNDP 2000a: 2). The water handbook (Wash 1999b) proposes a model of what this participation of rights-holders should ideally speaking look like (see Figure 14).

Also the government publications and program documents of the *Villages Assainis* program (e.g. MinSan 2010c: 2, 2010d: 3) stress the importance of participation in all stages of the program¹¹⁰. This is the element of a HRBAD that is most stressed

if they could pressure anyone, she added that it’s UNICEF’s responsibility to keep supporting the program.

¹⁰⁹ Perenco is an Anglo-French oil and gas company active in the region.

¹¹⁰ These documents even point out the need of participatory evaluation processes, whereby the communities have the possibility to express themselves in the most appropriate manner, and to explore the ‘diversity and plurality of experiences’.

throughout all the *Villages Assainis* interventions, and that shapes the entire structure of the program most markedly, both in the first and in the second phase.

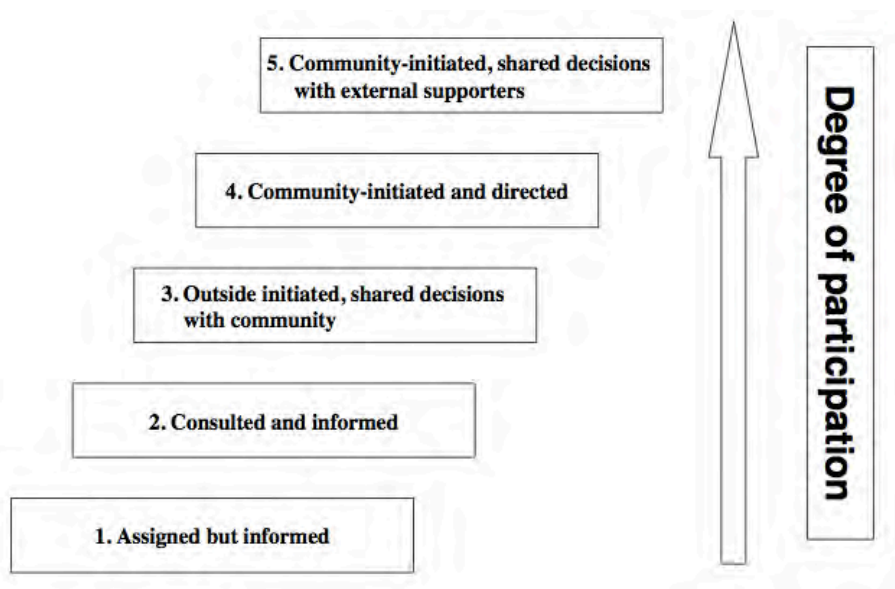


Figure 14 Degrees of participation in WaSH interventions (1999b: 10)

As was shown above, the phased life-cycle model (see Figure 11) stipulates that the initiative for every *Villages Assainis* intervention should come from the community which should develop its own strategy, and which should be supported, but not directed, by project partners. The importance of community and participatory approaches is also evidenced by the fact that the Action Research of 2013, included two entire reports on the participatory approach - whereas no reports covered the HRBAD more generally. The HRBAD's dimension of participation is thus stressed more explicitly than other dimensions discussed above.

The participatory approach in the *Villages Assainis* program is not only discursively important. Mechanisms have been developed to operationalize this element of the HRBAD. Interventions are structured along the lines of the framework of Participatory Hygiene and Sanitation Transformation (PHAST). In the implementation stage though, there were many disfunctionalities in the first phase, especially regarding the facilitation, participation and appropriation of the program. The Action Research (see WaSH DRC 2013h, 2013p) made several suggestions about how to improve the efficiency of the community approach, underlined its importance as an organizing principle of the *Villages Assainis*. Interviewees at the level of UNICEF DRC affirm that many of these suggestions have been followed when planning for the second phase.

This means that rights-holders, at least on paper, are involved in the start-up and practical execution of the project. Interviewees in most of the villages indicate that they were indeed consulted regarding the execution of the project but that they did not feel as if their suggestions were always taken into account in the first phase. An officer of the SNV (SNV1) asserted that UNICEF's participatory strategy, up until 2012, mainly existed on paper, and that UNICEF did not manage to reserve enough time and resources for implementing mechanisms for participation.¹¹¹ On practical matters interviewees in the villages felt somewhat involved, e.g. when discussing the type of well they wanted. However, several interviewees argued that they did not take the initiative for participating in the project, and that they did not feel that they had a voice in the formulation of the project goals. There is, in short no genuine participation in the conceptualization of the *Villages et Écoles Assainis* program, because participation seems to be used as a convenient implementation tool, rather than as a genuine planning tool. In other words, participation is pragmatically used as something which is needed to ensure the – low-cost – maintenance of infrastructure and appropriation of the project, rather than being indicative of a concern with including people as key actors in their own development.

There are several additional problems with this. Firstly, the program is based on the assumption of voluntary and unpaid participation of rights-holders. However, in many cases, the Action Research (WaSH DRC 2013h) found that this voluntary participation in the *Villages Assainis* project interfered with the everyday need of actors to make a livelihood. Time spent on the maintenance or installation of the WaSH infrastructure is time that could not be spent on making a living. The Action Research therefore suggests that the assumption of voluntary participation is one of the most important reasons for low efficiency and appropriation¹¹², and that participation in the program should be paid for (WaSH DRC 2013h). As a consequence, this report also proposes to make access to water a paying service, and reckons that populations will not consider this to be problematic as there is - allegedly - an understanding that water needs to be paid for. This shows the influence of the SanMark approach. There is however little research to substantiate this claim. Moreover framing water as a paying service raises questions about inclusivity and about the fundamentals of a HRBAD (see 5.2.8).

¹¹¹ This, he argues, is also the reason why they sought the assistance of the SNV for an external audit, because the SNV has extensive experience with this in practice.

¹¹² The assumption that people can simply give up land for the installation of this infrastructure is equally problematic, especially in urban areas.

Secondly, according to an officer of the SNV, many intermediary actors were not trained on how to implement a PHAST and did not know what the goal thereof was. Messages about empowerment, ownership or appropriation thereof often remained underexposed for rights-holders. As an SNV officer illustrated,

Villages thought that they just had to write a letter, and that UNICEF would then come and install the pump, so it [adherence to the program] was not per se supported broadly, or it was not as if the mere fact of receiving a letter indicated that the whole village was ready to assume its responsibility and engage itself for this project. They just wrote the letter because they thought that that was all they had to do to get a pump. So not much of the participatory approach was left in practice, even in those cases where there were formal requests by the villages.

Because of this, the participatory approach is often not understood as a positive concept by local stakeholders, who are not informed about the rationale for demanding their participation or about the added value thereof. As one interviewee from a village committee (V8) mentioned,

The execution is not always good, and a lot of money never reaches its destination. UNICEF gives the *Bureau de la Zone de Santé* money for 250 tiles, but we only get 125. The rest disappears, but they still think we got 250, and we have to manage the project with 125 and find the rest of the materials ourselves [...]. They call that community participation.

During the group discussion which followed, the entire committee agrees that the participatory approach is only used to cover up the *Bureau de la Zone de Santé's* own laundering activities, and does not see how this approach could benefit the village. Also other villages did not see the added value of a community approach. As the treasurer of one of the village committees (V9) argued, she did not understand why they had to produce the tiles in the village.

For the first water point, they just brought them in. Perenco also brings them in. But for this one, we had to make them here in the village. I don't know why. It's just how they decided it would be.

Villagers were not informed about the reasons for requesting this community participation in these cases, and did not see the added value.

Thirdly, the way in which participation is used in the *Villages Assainis* project is potentially suboptimal because of the perverse effects which an overly strong focus

on participation might have. In one of the villages for example, the sanitation infrastructure was not at all functioning¹¹³. Yet the *Bureau de la Zone de Santé* presented this village as a success story, because the people “have really appropriated the project”. Upon visiting, people indeed seemed satisfied, indicated to feel involved and listened to, and had taken several community initiatives¹¹⁴. Yet, despite all this, they did not have access to clean water or adequate sanitation. So in this case, the focus on participation has come to overshadow villagers’ actual access to clean water. Moreover, the focus on participation does not only overshadow the goal of access to water, but also interferes with other elements of the HRBAD, namely the role of duty-bearers in guaranteeing access to clean water¹¹⁵. This is illustrated by the remark of an officer of UNICEF DRC’s WaSH (CO4).

The program makes a plan, but it’s they [rights-holders] who have to solve their problems, it’s nothing to do with others doing it for them. It’s not that. We intervene in order to ensure that their right is guaranteed, but it’s they themselves that have to ensure it through a good planning. It is the task of the community to do this. They define their needs, they define their projects, and the government, with the support of UNICEF, is there to support them with that. This is what a HRBAD is about, ensuring that everyone has something. But now, you can’t say that if a village for example notices that their one waterpoint is insufficient that this is not their own fault. They should have foreseen this. They should have planned several water points. So it’s not that they should claim their right vis-à-vis another actor. It’s they themselves that have to make a good planning. They have to make a planning on the basis of the problems that they have identified. They know their problems, not anyone else. They have to think about a solution, not anyone else.

In conclusion, the analysis shows that the dimension of participation is more explicitly present in the discourse than for example the political dimensions of a HRBAD, and that there has also been more attention for the development of

¹¹³ The waterpoint cannot be used in the rainy season and the toilets started to cave in months ago.

¹¹⁴ There is a slight change of discourse though when the *Médecin Chef de Zone* leaves the discussion. People express their dissatisfaction over the project because, as they contend, “We were always there. All of us. Everybody was happy to help and really had an ‘*esprit de cooperation*’. But still we don’t have clean water.”

¹¹⁵ The logic seems to be inspired by the neoliberal idea that water, like anything in life is a paying service, and that it is up to people to ensure that they can afford this.

mechanisms (such as the *pas-à-pas* structure) to ensure this participation. However, despite this attention, mechanisms have often not been implemented in a correct manner in the first phase, and it is too soon to judge whether the recommendations of the Action Research will improve this situation in the second phase. Moreover, rights-holders are scantily heard regarding the goals and structure of the program, and can only provide input on practical matters. Lastly, many interviewed rights-holders indicate that, despite the fact that they are the alleged managers of the project, they do not know where to go in case of problems, feel dependent on the *Bureau de la Zone de Santé* and express low degrees of ownership.

5.2.7. THE PROGRAM FURTHERS ACCOUNTABILITY AND THE RULE OF LAW

Accountability is a key factor of a HRBAD according to the UN Common Understanding (UN 2003), which reads that,

states and other duty-bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicators in accordance with the rules and procedures provided by law. The right to know and freedom of information are essential to securing transparency and accountability.

Also UNICEF's own conceptualization of a HRBAD (2012, see section 4.2.1.) and the UNDP Capacity Development Resource for a HRBAD (2006b: 57) stress the importance of accountability mechanisms by asserting that,

effective mechanisms for ensuring accountability must not only be built into the design but actually function in practice. Such mechanisms could be internal (to the program/project), external, or a mix of both. From a HRBAD perspective, it is vital that stakeholders be part of such accountability mechanisms including key rights-holders and key duty-bearers.

In this section we will maintain this distinction between mechanisms for internal accountability and mechanisms for external accountability, for reasons of analytical clarity¹¹⁶.

¹¹⁶ Even if we acknowledge that in practice there is often an overlap since the program is implemented by the *Bureau de la Zone de Santé*, which are government actors and at the same time project partners. We will refer to them here as project partners though, and therefore discuss them under the internal program accountability section. The notion of

INTERNAL PROGRAM ACCOUNTABILITY

When analyzing internal accountability, we consider whether the official policy (here the HRBAD) is being implemented, whether there are mechanisms for complaining in case of problems, whether there is an obligation for UNICEF to follow up this complaint, and whether there is a willingness to compensate if a complaint is justified.

In the first phase, few mechanisms for ensuring internal accountability were operational and known to rights-holders, neither were there specific guidelines or obligations regarding what to do in case of a complaint. There was no ombudsman, no regular or systematic consultation of rights-holders, and no networks where rights-holders could voice their concerns. On paper, 20% of all certified villages had to be visited by a UNICEF WaSH officer of the provincial level. Additionally, the country office plans several visits per province, and government actors at the provincial level also visit at least 20% of all participating villages, which, in theory, should result in about 40-50% of participating villages being visited. In practice however, only two of the villages included in this study said to have been visited by any of these actors in the past year. The limited number of villages in our study restricts us from making sound claims, but this finding nevertheless raises the question if the foreseen visits are actually being carried out. Moreover most of these villages did not know how to reach out to the *Bureau de la Zone de Santé* or UNICEF themselves, and thus had to passively wait for their visits¹¹⁷. Since these visits are not announced moreover, villagers cannot organize preparatory meetings to discuss problems or formulate claims, and are often away when project partners arrive.

Interestingly, interviewees at UNICEF did not express a great concern with low program accountability in the first phase, invoking the ownership and participation which rights-holders and government actors should have over the project as reasons not to intervene. When discussing this issue with an involved officer of WaSH in Matadi (PO1), he replied that the project is the responsibility of the villagers and that they should find their own solutions if problems arise, because most problems are

external accountability will be reserved for those government agencies which can clearly be defined as duty-bearers.

¹¹⁷ 8 out of 9 committees indicated that they did not know how to get in touch with UNICEF or the B9 themselves, in case of problems. 5/9 also indicated that they did not know how to get in touch with the *Bureau de la Zone de Santé* themselves in case of problems. The other indicated that they could get in touch with the *Aire de Santé* and through them with the *Bureau de la Zone de Santé*, or directly with the *Bureau de la Zone de Santé*.

due to poor maintenance, which is also their responsibility. The interviewee acknowledged that people could not reach anyone beyond the *Bureau de la Zone de Santé*, but did not find this problematic per se, as the Bureau itself should only be considered an emergency contact. Providing people with contact details of UNICEF would be counter-productive according to this interviewee because UNICEF does not aim to play an active role in this program and doing so would allegedly challenge local ownership. When explicitly asking this interviewee about the emphasis which the UN Common Understanding (2003) places on accountability, and whether any specific structures are foreseen to ensure that local stakeholders can have their voices heard in case of problems, the interviewee replied,

I can't answer that. And besides, a complaint based on what? If there is an installation which is no longer working, it is they who have to repair it anyway, not anyone else.

The interviewee thereby equated complaints about technical failures with complaints about incorrect behavior by implementing partners, and precluded the installation of accountability mechanism by acknowledging the existence of technical problems which are deemed to be rights-holders' own responsibility anyway. This overlooks, for example, the reality of large-scale fraud at the level of the *Bureau de la Zone de Santé* and the executing agents¹¹⁸.

The reluctance to acknowledge these problems or provide mechanisms for redress is related to a dynamic of blame-shifting, according to the SNV officer who conducted an external analysis (SNV1). As this officer argued,

One thing which I think should become even stronger is that we really take our responsibility towards the populations, that we really *feel* accountable towards them, that we ask them to take their own responsibility but are also willing to take our own responsibility. [...] There is always a tendency to blame others for things that do not work. State actors blame the communities, UNICEF blames the state actors and the communities blame UNICEF. [...] and of course I am not denying the important responsibility of the communities. It's firstly they that have to be convinced and see that this is for their good. But we, who are charged with the task of guiding this process, if we already do not

¹¹⁸ Several villagers indicated that they had to sign fraudulent or blank documents. Moreover, one of the *Médecins Chef de Zone* was fired last year due to large scale fraud, and in our own interactions with *Médecins Chef de Zone* some expressed an interest in accepting bribes ("motivations") e.g. for giving an interview, indicating which village to visit, etc.

take our own responsibility or do not even recognize that it is there, then what can we expect?

On the side of interviewees in the villages there is moreover a strong desire for a greater presence of UNICEF in the field. Three committees – without specifically being asked about this – indicated that they would prefer UNICEF to be directly involved in the communities, even if UNICEF may not know the local context that well, because this would at least ensure that the materials would arrive where they have to arrive. Interviewees at UNICEF however indicated that, since they envision local solutions and ownership, “referring back to UNICEF is not necessarily the message that we want to send”.

In the second phase though, UNICEF has taken some steps to try and remedy these problems through the provision of a – limited – telephone directory¹¹⁹ (in the *Carnet de Suivi Communautaire*), the creation of networks of different Committee Presidents of an area, and the installation of an – SMS – alarm number¹²⁰.

A challenge which these new mechanisms will have to face is that, at present, many interviewees in the villages indicated that they do not report any problems¹²¹ because they reckon that nothing will happen because of their past experience of low responsiveness of the program. This belief has been built up over the years and it is unsure whether the mere installation of new communication mechanisms will, in itself, be sufficient to overcome this. In addition to this skepticism there is also a cultural element which keeps people from reporting problems, i.e. that this is considered a failure by some villagers or because the *Bureau de la Zone de Santé* is seen as a remote entity. As a senior officer of WaSH DRC (CO6) confirmed,

¹¹⁹ All the telephone numbers are of contact persons within the same Bureau de la Zone de Santé though (Community nurse, *Médecin Chef de Zone*, community worker, etc), which is usually where the problem lies. Interviewees in the villages indicated that the biggest problem was that, if there was a fraud at the level of the Bureau de la Zone de Santé for example, they had no possibility to reach anyone beyond this level.

¹²⁰ This UReport is part of a larger initiative at the level of WaSH headquarters (RapidSMS), whereby they try to map emergencies worldwide on the basis of SMS by rights-holders. U-report is based on a pilot project in Uganda, where project leaders in the villages receive a cellphone (or just the contact number) which they can use to report problems, and to which periodic SMS are sent to ask about their experience. Their SMS go to an alarm central which is managed by the B9 with the technical support of UNICEF.

¹²¹ Some villages had contact details of Bureau de la Zone de Santé officials already in the first phase of the program, but did not use these because of a sense of *défaitisme*.

It's still very much the goal of trying to have a participatory approach, but yes, with these kind of power relationships, it is difficult. These people (*Médecins Chef de Zone*) have quite a lot of power, because they have motorcycles, and they drive around, and they have access to money, and they are visiting communities that only ever talk to them and not to anyone else.

When discussing these attitudinal and cultural barriers with WaSH officers, few strategies seemed to have been developed to cope with this issue, and the argument was that the mere installation of adequate communication mechanisms would improve the internal accountability of the program. As a WaSH innovations officer at headquarters believed (HQ2), "people will immediately perceive the amplifying effect this has on their voice", and therefore much attention has been paid to the installation of these warning mechanisms in the second phase. This is indicative of a greater concern with the internal program accountability, even if resources put at the service thereof are not invested in the adherence of new villages to the program¹²².

There has thus been little attention for internal accountability in the first phase of the program. It is argued that this has improved in the second phase, under the influence of the Action Research and the SNV. However, since there is still no explicit operationalization of how a genuine HRBAD-policy should be implemented and no mechanisms for ensuring that UNICEF itself has to act in a responsive manner when it receives complaints about its approach.

EXTERNAL GOVERNMENT ACCOUNTABILITY

A senior officer of WaSH DRC (CO1) argued that in UNICEF's work with government, one of the most important endeavors is to build a culture of accountability, to improve leadership and to prepare government interlocutors for taking up their responsibility. As this officer asserted, the program aims to build three types of accountability, we discuss each in turn below. It should be noted that UNICEF's own accountability is not considered in any of these domains in the exposé of this interviewee.

INSTITUTIONAL ACCOUNTABILITY

¹²² This seems to be inspired by the collaboration with the SNV, where it was pointed out that in some villages the situation today is worse than it was before the start of the program, due to the fact that the *Villages Assainis* installations replaced existing infrastructure, but cannot be maintained by the villagers, meaning that they effectively have no more access to water at all anymore.

This refers to UNICEF's work inside of government, where it seeks to implement systems for internal auditing, for monitoring, for creating a culture of results-based performance assessments ¹²³, for recruiting people on the basis of their competencies, for combatting corruption and misuse of funds, for ensuring that people fulfill their function, for promoting transparency in recruitment, etc.

Unlike other interviewees, this officer argued that there is conditionality built into the program, and that allocation of funds is results-based. There is a quality assurance unit at the level of UNICEF's country office which undertakes a continual auditing and provides recommendations for improvement. The interviewee argued that sanctions are possible in case of severe problems, such as the misreporting of data. Problems are usually due to either administrative issues such as fraud, or to capacity issues, such as poor performance due to insufficient training. Performance at the level of the involved ministries is monitored in a broad sense by a specialized unit within WaSH, with the support of UNICEF's country office and the DfID.

CONTRACTUAL ACCOUNTABILITY

This refers to the systems of conditionality which UNICEF sets up to link funding to the results of the actors, e.g. by paying only part of the amount for the execution of the project to the implementing partners, and making the payment of the last installment dependent upon the signature of the village committee president who affirms that the works have been carried out. Several committee presidents told us however how they were asked to sign blank documents or documents indicating wrong numbers ¹²⁴. UNICEF DRC referred to these instances as '*accidents de parcours*', which can never be excluded.

MUTUAL ACCOUNTABILITY

This refers to the idea of balanced power structures between the village, government and the implementing partner so that, in case of break-downs, there is a

¹²³ A side-effect of this stress on results-based management, is that when government adopts this logic, it also starts to work along the lines of quantifiable technical results, which difficultly incorporates more 'soft' concerns like empowerment of rights-holders. This is already visible in the yearly reports which present an overview per province and per district of how the situation has evolved with regards to a number of parameters like cholera outbreaks, access to clean water and hygienic facilities, handwashing etc., as well as an overview of how the number of participating villages and health zones has increased (MinSan et MinEdu 2009, 2010, 2011, 2012).

¹²⁴ Even if documents were correct, most installations broke down soon after the signing of the '*réception provisoire*'.

relation of mutual accountability which allows people to present claims and to discuss problems as equal partners. In particular, the WaSH division tries to ensure that the government plays a role as an intermediary between the implementing partners and the population, and that it mediates between these two parties in order to protect the rights of citizens.

Despite all these efforts, the direct accountability of government actors vis-à-vis the target population remains problematic, mainly because of the financial dependency of the population, the lack of good information about their rights and potential to claim these, and the lack of transparency about the agreements between government actors and UNICEF. Right-holders often do not know precisely what the duties of the *Bureau de la Zone de Santé* or implementing partners are, and what they can do in case this is not lived up to.

Several WaSH DRC officers denied that the solution lies in an increased presence of UNICEF in the field or in the installation of more formal control mechanisms, as these only overtake the duty-bearers' responsibility. These officers advocated a more genuine awareness raising process as well as installing structures for mapping problems, as this would increase the visibility of problems and thus – allegedly – also increase the accountability of government.

CONCLUSION

While there is an understanding amongst UNICEF officers that government accountability should be increased, there seem to be few practical measures to actually implement this beyond the central level. There is no documentation on accountability mechanisms or systems for redress, which creates the impression that only few targeted actions are taking place. More importantly, the *Villages Assainis* program almost entirely omits the focus on internal program accountability. UNICEF officers themselves and the implementing NGO's cannot be held accountable by rights-holders. The problem of accountability is added to by the lack of transparency of the program. Transparency is essential both for access to information and for securing accountability (UNDP 2006b). While transparency is formally considered a priority, there are only a few underspecified mechanisms to ensure this¹²⁵. In the

¹²⁵ There are, for example, vague criteria for selecting villages but few *Médecins Chef de Zone* knew these or applied these; there are several ministries involved meaning that the lines of responsibility are unclear; people often do not know the precise function or motivation of *Villages Assainis* agents who visit the village; most people do not seem to have even a vague idea about the structure of the program and who is who, often we are treated as Bureau de la Zone de Santé staff, people do not know what the relation between UNICEF, the

second phase, some steps have been taken to improve transparency and communication mechanisms¹²⁶, whether these will be sufficient to increase accountability is unclear though.

5.2.8. THE PROGRAM PROMOTES EQUALITY, NON-DISCRIMINATION AND INCLUSION

The non-discrimination principle is key in the Common Understanding of a HRBAD (UN 2003), which reads that,

all individuals are equal as human beings and by virtue of the inherent dignity of each human person. All human beings are entitled to their human rights without discrimination of any kind, such as race, color, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies.

Moreover, the right to water of women and children is explicitly recognized in international law. Also during interviews with headquarters the principles of equality and inclusion were heavily stressed. This is reflected in the discourse at the country office level, where inclusion, next to participation, seems to constitute the core of the *Villages Assainis* program. As a senior officer at UNICEF DRC argued (CO4),

If you want to develop an indicator today for a program or operation, it will be '100% of the children of the DRC have access to clean drinking water'... That's a HRBAD. We can't say that 50% of the children now has access and that we are happy with that. Everyone has to have access. It's a question of equality, of justice.

Also throughout the Action Research, there is an explicit focus on the inclusion of all stakeholders (see, for example, WaSH DRC 2013h, 2013p, 2013l, 2013j). However, while the goal of inclusivity is unequivocally defended by interviewees in the DRC's WaSH division, and while several mechanisms are in place to ensure inclusive these mechanisms are often not implemented successfully¹²⁷. The *three pillars structure* for

government, the Bureau de la Zone de Santé, the NGO's and the private actors are, nor about what their position in this structure is, etc.

¹²⁶ The confusing structure of having a *Villages Assainis* village committee in parallel to the traditional village committee was, for example, abolished.

¹²⁷ There are, for example, quota about the number of women in the village committee, but in Phase I, there was no guidance on how to raise awareness amongst rights-holders of the added value of implementing this measure.

consulting the village for example, foresees that men, women and youth are consulted separately in the fifth to eighth step of the program (see Figure 11). As a senior officer (CO4) explained,

...we make sure that the entire community is there. What is going to emerge is the formulation of a need which is a need of the entire village. If you would for example take only the Chef or a small group of people, it would not work. So we tell them to get everyone together, and to ask to everyone what the problems of the community are, to make sure that they know what is really found important in the community. We also ask them to make sure that all the women are there, all the men and all the youth, and to ask to each of these groups separately what their problems are. Once they have done that, they should propose solutions to everyone's problems. So this is the planning approach based on the rights of the three different groups in society.

In none of the villages which were visited for this research however, were consultations organized in this manner. Several *Médecins Chef de Zone* indicated that they had never heard of a 'three pillars structure' for consultations. Several officers at the country office of UNICEF denied that this was possible, and that every doctor receives training on the three pillars structure¹²⁸. This hints at a disconnection between what is defended at the level of the country office and what happens on the ground. While the formal program documents and the discourse of WaSH officers show a great concern with inclusivity, in practice, those mechanisms for ensuring inclusivity and equality which exist are not implemented on the ground.

Moreover, the ECRIS study (WaSH DRC 2013p) also warns for the way in which inclusivity is conceived of, and the instruments which are used to achieve this. The report insists that criteria like gender parity in the Village Committees, or the inclusion of disabled people, are perceived by local actors as external impositions, and that they are not broadly supported by the village, meaning that, even if the formal quota regarding women are fulfilled, this says little about the actual voice and

¹²⁸ The interviewer repeated three times that no one in the villages was petitioned in this way. The interviewees argues each time that this is impossible, suggesting that we probably did not visit *Villages Assainis* but random villages, that we did not explicitly ask about consultations, that we did not speak to the community worker or *Médecin Chef de Zone* in the *Bureau de la Zone de Santé* but to someone who was not directly involved, etc. He contends that every facilitator received at least two to four trainings on this because it is the official approach of the *Villages Assainis* project, stating that, since this is the official approach, there is no problem, people *are* trained in this way. He concludes that people are not telling the truth because he is sure that this is how things happen on the ground.

agency which women have in the village committees. The study therefore proposes to reconsider the current strategy of quota for inclusivity, and to think about more comprehensive awareness-raising strategies. Even if these would not lead to immediate changes, it may lead to a more genuine inclusion and empowerment of disadvantaged groups in the long run, because of a process which is more firmly rooted in the local culture and which grows gradually. The report also argues that adapting strategies to the local context, could be seen as an indication that UNICEF is also willing to critically reflect on its own paradigms.

Lastly, it should be acknowledged that the strong emphasis on inclusivity has inspired the decision to include as many villages as possible in the program over the last few years, even if this was at the expense of an elaborate follow-up program. As one of the officers of WaSH DRC indicated:

We make sure that the approach covers the basic needs of everyone. We want everyone to have access to basic services, also the poor and the marginalized. We take that as our starting point, and target the most vulnerable groups in an inclusive approach and that is motivated by a right to basic services [...] We are limited because of our resources. But the intention should be not to exclude anyone, and to have an inclusive approach. Now of course we don't have the means for that. The government is brimmed, so they can't do it all. The *Médecin Chef de Zone* will not forbid them [villagers] to organize something themselves, but when they [villagers] already have one well, we will first focus on satisfying the needs of others which do not have anything yet"

In practice though this focus on including ever more villages without structurally addressing follow-up meant that many certified villages, de facto, lost access to water and sanitation shortly after certification. In some cases, the post-certification situation was worse than the situation before they entered the process in the sense that the original means for obtaining water was replaced by a WaSH infrastructure, which often deteriorated and became non-functional months after the certification, meaning that people did not only lose their access to water through this new infrastructure which they were unable to maintain, but that they also did not have the old systems anymore.

In short, the overly strong focus on inclusivity at the DRC country office – which is in line with the discourse at the level of UNICEF's headquarters - without a solid plan about how to achieve this in a culturally relevant way, has generated some negative consequences for the program, and for rights-holders' right to water. Overall though,

this concept seems to be one of the less problematic elements, and the ECRIS study indicates that there is a willingness to further adapt it to the local context.

5.2.9. THE PROGRAM AIMS TO FACILITATE OWNERSHIP AND LOCALLY-OWNED PROCESSES
Both the Common Understanding (UN 2003) and the Capacity Development Resource on a HRBAD (UNDP 2006b) emphasize that the development process should be locally-owned and that “national ownership and stakeholder participation cannot be empty rhetoric and must become day-to-day practice” (UNDP 2006b). When we speak of ‘local ownership’ we refer to villages’ and rights-holders’ sense of control over, and appropriation of, the project; not just to the level of UNICEF’s country office appropriating the program. This does not mean that all responsibility is shifted to the level of local rights-holders, without ensuring appropriate material and organizational support – as is now often the case – but rather that the program facilitates that people can genuinely take their own decisions within enabling structures foreseen by the program. It is thus not a matter of discursively shifting responsibility from duty-bearers to rights-holders, but rather of fostering a facilitating context which is genuinely engaging and empowering people to appropriate the program. Also when envisioning local ownership, there is thus still an important responsibility on the side of duty-bearers.

In program documents (e.g. WaSH DRC 2013p, 2013h) and in the discourse of the WaSH division DRC, local ownership is an important consideration. Moreover, as a senior officer of WaSH DRC (CO3) argued, since the beginning of the second phase, the idea of ownership, is no longer limited to the eight stages of the *Villages Assainis* process itself, but also aims to guarantee that people will continue to manage the project after they have gone through the entire *Villages Assainis* cycle (see Figure 11) and have become certified. This attention for ownership in the post-certification phase is new. As the interviewee explained,

The idea is that we’ve broadened that programmatic responsibility range into the whole life cycle of the village, and not just the life cycle of the program, these same actors will now also be doing community and CAP [*Connaissances, Attitudes et Pratiques*] surveys after the certification, and are accountable whenever the norms are not met.

Other senior officers added that more resources have been made available for ensuring that rights-holders are better prepared for taking ownership, and that facilitators are better trained on how to facilitate this local ownership. The decision to invest more in the post-certification appropriation, and to try to realize the

ownership into the life-cycle of the village rather than in the life-cycle of the program, was partially inspired by the consultancy of the SNV, which proposed for the first time to refrain from referring to a village as a success story in case the village had not taken on responsibility for post-certification follow-up.

RIGHTS-HOLDERS

As a consequence of this increased attention for appropriation, several specific initiatives have been taken, which envision local ownership of processes, but the effects of these interventions should be critically assessed. A stress on local ownership and local initiatives often overlooks people's material reality by asking them to install their own – broadly supported – systems, thereby ignoring that often no materials are in place to execute this strategy, and that the ownership concept is much broader than only emphasizing people's material contribution. Rights-holders' material reality also challenges the potential to manage the project locally in the post-certification stage. The inability of villages to purchase the expensive materials which are needed to repair pumps and water points, means that they remain in a continued relation of dependency vis-à-vis donors and the state, which makes ownership a distant ideal¹²⁹. This is also illustrated by the fact that virtually all requests to the *Bureau de la Zone de Santé* are for material assistance. This suggests that people either do not consider it their responsibility to invest in the project, or that their material reality simply does not allow for this.

Of all villages visited for this project, only one village committee expressed a sense of ownership, when they argued that they could contact the *Bureau de la Zone de Santé*, "but the first responsibility is ours. We first try to solve the problem ourselves, and only if this does not work, we go to the *Bureau de la Zone de Santé*". This committee also argued that its suggestions regarding the process were taken into account. In other villages a lagging appropriation and sense of ownership seemed to be related to the perception that the program is coming from abroad.

Moreover, in Phase I the idea behind the logic of participation – i.e. to increase ownership – was often lost in translation. When asking *Médecins Chef de Zone* about participation of people in the villages, none of them spontaneously referred to a more structural inclusion of rights-holders that would facilitate a sense of ownership. Instead, an often-heard reply was that people needed to participate to lower the

¹²⁹ The fact that people do not have the material resources to actually manage the program leaves them feeling powerless, as one committee president argued, he feels empowered and competent enough to manage the project, but simply does not have the resources for doing so.

cost of interventions and to understand why it was important to wash their hands and use the latrines. The empowering potential of a participatory approach was never mentioned (see also 5.2.10). Even when explicitly asked about this, interviewees from the *Bureau de la Zone de Santé* did not seem to see the link between participation and ownership or empowerment, but merely stressed that if people understand, they are more likely to 'obey' (interview MCZ 8).

Lastly, as one UNICEF WaSH officer (CO5) critically remarked, this interpretation of ownership places an even heavier burden on the shoulders of rights-holders, who have to take almost all responsibility, without there being much attention for the role of the national government or of local authorities. This limits state and program accountability and challenges actual local ownership.

GOVERNMENT

To explain the lack of ownership on the side of government, an interviewee from the Ministry of Health (NG2) insisted that,

[T]hey [UNICEF] have been here since 2008 with administrative support, and the program has been around, but the strategic documents only came very late, and it was UNICEF which developed these. This was done in collaboration with Mr. [...] and another colleague at the Ministry of Health. But I [at that time the interviewee was a high ranking official at the provincial level] only saw these documents for the first time in 2011 or 2012. So [...] they had mobilized the resources in function of their own predisposition and with an eye on the results that they had in mind. So the operational model which was in place in the Bureau was not bad, but the strategy behind it was only known to UNICEF really [...] Only at the national level, there were consultations with government on the elaboration of strategic documents.

He adds that at this point, there was communication between the central level of government and the provinces, but that government officials at the provincial level did not per se obtain any information on the program strategies, and received only the operational documents. This suggests that the sense of appropriation at the level of the provincial B9 has been low, but the interviewee adds that also the national government itself did not feel much ownership. The interviewee (NG2) explains that UNICEF implicitly acknowledged this in the sense that,

[T]oday, the most important thing – even UNICEF says this – is that they will help the government to appropriate the program. [Laughs] That's what they say. Those are their words. That's to say... The government has not yet

completely appropriated the program. Its own program... [laughs again]. If the government has not yet appropriated the program, and it is a program by the government... [silence, then laughs again]. You understand what I am saying? So luckily, some years ago they started to focus on appropriation and on the transfer of competencies. This all started some years ago and that's a good evolution [...] For us, there was not enough understanding about the program. It was as if the program existed elsewhere and they just transmitted bits. But today the program becomes more and more a program of the government. It is more and more the government working with UNICEF rather than the other way around. So if you speak of weaknesses... I think that many issues surrounding the program were discussed outside of the program. The programmatic documents were developed by the former colleague in the Ministry, but in fact, the government actors did not feel as if it was their program, it didn't feel as if it were their program. They hadn't appropriated it. This problem persists until today. And that's the truth. We need to say it like it is. Until today, even our own minister talks about UNICEF's program. Even he doesn't know it's a program of the government and thinks it's a program by UNICEF. But I feel that, in the current UNICEF team, there really is a willingness to transfer competencies and responsibilities, to really act in a supporting role rather than in a directing role. There is the effort and the willingness but it's a long process.

Also the different government levels have thus not appropriated the project and do not always feel ownership over it.

UNICEF'S PROVINCIAL OFFICE

It is furthermore important to remark that the lack of a sense of ownership can also be witnessed at lower-level UNICEF offices. An officer of UNICEF WaSH in Matadi (PO1) for example argued that he was not at all involved in the drafting of the second phase. In contrast, the DRC WaSH officers firmly contended that the provincial bureaus were closely involved in the process. Irrespective of whether this was indeed the case, this illustrates that the provincial office of WaSH does not perceive the process as one in which his concerns were taken into account.

CAUSES OF LAGGING OWNERSHIP

While local ownership is envisioned, this is not always taking place in practice, neither at the level of the villages nor at the level of the government partners (national, provincial, *Bureau de la Zone de Santé*) is there a true appropriation of the

project¹³⁰. The ECRIS report (WaSH DRC 2013p) refers to the role of *nokoisme*¹³¹ and *attendisme* as the historical causes for a low sense of ownership. It is argued that people tend to look at external actors to obtain a certain good, and that this keeps them from taking initiatives themselves. This is also related to the issue of voluntary participation. While encouraging people to participate voluntarily is difficult as long as appropriation is low, paying people for their participation is likely to have an adverse effect in the sense that people remain dependent on the money of project partners, or *noko* (WaSH DRC 2013j). More generally, the lack of appropriation also seems to be related to a lagging understanding of the benefits of the program. According to one of the *Médecins Chef de Zone* however, this dimension is difficult to work with, as there are not sufficient resources to raise awareness in the participating villages. He even asserted that this awareness is sometimes lacking in certain *Bureaux des Zone de Santé* too.

The ECRIS study (WaSH DRC 2013p) however argues that the main reason for non-appropriation is not a lack of understanding but the fact that people do not prioritize this new behavior of, for example, washing hands or using covered toilets, amongst others because it conflicts with their existing beliefs, and that, therefore, these existing beliefs have to be incorporated in a more structural manner into the program. The study also denounces the fact that there has been a strong belief in top-down methods for fostering behavioral change in the past¹³², despite the program being bottom-up on paper. In reality, the program has been more directive than it claims to be.

¹³⁰ Two interviewees from the Ministry of Education and the Ministry of Health illustrated this by saying that their colleagues consistently refer to 'UNICEF's project'. Also villagers and *Bureau de la Zone de Santé* staff tended to refer to the infrastructure as the 'UNICEF pumps'.

¹³¹ *Noko* means uncle in Kikongo, a person in the family who can typically give something more to the children than the father, without however taking the same responsibility of the father. The term *nokoisme* is often coined to indicate that people are used to wait until an uncle comes to offer them something, but that this uncle does not take on full responsibility for what happens afterwards.

¹³² An additional problem that arises under this assumption arises when the provincial office has a different understanding about the knowledge that should be transferred. As this interviewee argues, the core message to be transferred is that "un village assaini, c'est un village où on ne mange pas le caca. Ce n'est pas un village propre. [...]. En termes de propreté, tout ce que nous faisons, c'est éviter qu'on mange le caca. Ils doivent comprendre ce principe. La responsabilité pour la ville, ça ne revient ni à l'ONG, ni au gouvernement, ni à la zone de santé, ni à l'UNICEF, c'est à eux de le faire."

At the level of the *Bureaux des Zones de Santé* a lagging sense of ownership mainly has to do with the idea that this is UNICEF's program, and that hence UNICEF should provide funds to the *Bureaux* for following up program activities. There are no systematic efforts by government actors at the national or provincial level to mediate the interpretation that this is a program coming from abroad and managed by foreign actors. Also UNICEF itself does not have any actions to overcome this. The fact that it manages the combined donor resources for the program moreover makes it the de facto decision-maker, which also explains why government actors at the national level continue to refer to this as 'UNICEF's program' rather than their own.

CONCLUSION

The country office is the only level which says to feel ownership over the *Villages Assainis* program, and which does not experience a sense of heteronomy. This may be explained by the fact that UNICEF's country offices receive few instructions from higher levels and have a high degree of autonomy to define their own programs within UNICEF's decentralized structure. However, this is not the most important level which we refer to when speaking of *local* ownership.

At the level of the villages, the *Bureau de la Zone de Santé*, the provincial UNICEF office, and the concerned ministries there is a problem of ownership though. Augmenting appropriation is therefore one of the main goals of the second phase of the program¹³³. The Action Research proposed several abstract critical reflections on this topic (in the ECRIS study, WaSH DRC, 2013p), as well as some concrete measures to be implemented in this phase, such as an increased reliance on the PHAST approach. This attention which is paid in the second phase is intended to bring the program in line with the participation dimension of the Common Understanding (UN 2003) and the Capacity Development Resource on the HRBAD (UDNP 2006b). It seems to hold the promises of improving this dimension of participation in the future.

5.2.10. THE PROGRAM USES EMPOWERING STRATEGIES

The Common Understanding holds that the strategies used in a HRBAD should be empowering for rights-holders (UN 2003). With regards to this issue, the situation is tangled. On the one hand, for example, awareness-raising on practical matters such as the origin of diseases is heavily stressed by WaSH officers as this will allow people to understand their own situation better and to act upon newly gained insights in an

¹³³ See for example WaSH DRC (2013h) which states that the main goal of the action research is to have a positive impact on the appropriation, inclusion and accountability.

empowered manner. Yet, on the other hand, this awareness-raising is mainly designed as a transfer of ‘imported’ medical and technical knowledge which ignores the existence of local belief systems (see WaSH DRC 2013p). Moreover there is no skills trainings in the program, or no discussion of broader issues like people’s strategic needs or their right to water. Both UNICEF officers and staff at the *Bureaux des Zones de Santé* argued that skills workshops or general awareness raising programs fall beyond the scope of the *Villages Assainis* project, and that workshops to transfer knowledge were the most important component of the *Villages Assainis*. Interviews and focus groups with rights-holders indicate that, at best, the ‘skills’ which are addressed in these trainings are practical skills needed to comply with the requisites of the program (i.e. on digging wells, adopting good hygienic behavior, or filling out forms correctly according to a standardized format)¹³⁴, but not the type of transferable skills which could constitute a basis for strategic action. None of our interviewees at UNICEF saw a direct need to teach right holders more general skills.

The question then arises if this approach is genuinely empowering. On the one hand one could argue that it is. As a senior officer of WaSH DRC argued, “It’s about people taking responsibility for themselves”. This could be a genuinely empowering starting point in theory. However, during the same interview, the interviewee argued that the program should not really focus on framing water and sanitation as a right, which means that, in practice, people are not offered a framework to think strategically about their situation of deprivation, and that the discourse of responsibility mainly refers to individual responsibility rather than the responsibility of duty-bearers¹³⁵.

As we demonstrated above, participation and inclusivity are two of the main concepts of the *Villages Assainis* program, which are supposed to trigger a sense of ownership and empowerment. It can be questioned however if participation is

¹³⁴ Three presidents argued that they did receive skills training but eventually turned out to be talking about ‘how to wash our hands’, ‘how to use the latrine’, etc.).

¹³⁵ It is relevant to mention that, when asking rights-holders for one message which they would want to give to UNICEF, seven out of nine presidents replied “Thank you”. No one presented any substantial demand or made any general suggestions about the program, the method or the strategy. This hints at a continuing relation of dependence and disempowerment, whereby rights-holders feel that they should be thankful for a ‘gift’ coming from the transnational actor, rather than seeing the intervention as a mere fulfillment of their human right. Three interviewees specifically add a message that UNICEF cannot leave them, that they need them.

genuinely empowering if people are not consulted about fundamental issues and can only mobilize to execute programs handed down in a top-down manner, and if they are not presented with more critical discourses or with workshops envisioning the development of transferable skills. Hence, while the discourse on empowerment is very present, it seems to be interpreted in a particularly pragmatic manner, and few adequate mechanisms to ensure this have been developed or implemented.

5.2.11. THE PROGRAM SEEKS TO DEVELOP AND SUSTAIN STRATEGIC PARTNERSHIPS

Another essential element of a HRBAD, according to the UN Common Understanding (UN 2003) and UNICEF's own conceptualization of the HRBAD (UNICEF 2012) is the development of sustainable and strategic partnerships with concerned actors. A crucial element of a partnership, according to the Common Understanding is that both partners can act as equals.

Whereas this is also a formal goal of the *Villages Assainis* program, one can hardly speak of a true partnership when considering the power relations in the *Villages Assainis* program, between government and UNICEF, as well as between the villagers and the implementing partners.

UNICEF – GOVERNMENT

Regarding the relationship between government and UNICEF, it should be noted that, since the government's financial contributions to the program are minor, UNICEF has a strong voice in setting the formal goals of the program and in drafting the programmatic documents. It has a great weight on determining the strategies and structure of the program. However, since the day-to-day management of the program on the ground depends on the *Bureaux des Zones de Santé*, which are government agents, government has a vast impact on the management of the program, and thus, indirectly, also on its implementation.

In practice this means that it is not rare to see a disconnect between the choices which are made at the national level by UNICEF and the logic of *Bureau de la Zone de Santé* in the field. This sometimes leads to tense relations, secrecy about operational choices or misreporting on results, and makes it difficult to establish a sustained strategic relation between UNICEF on the one hand, and government actors at different levels on the other hand.

Also the *Bureaux des Zones de Santé* find themselves in a difficult position however. Since there is not much attention for streamlining the public finance within the context of the *Villages Assainis* program, the *Bureaux des Zones de Santé* remain

entirely independent on donor financing reaching them in due order. Since the channeling of funds does not always go smoothly, the *Bureau de la Zone de Santé* often faces difficulties to set up sound programs. As one *Médecin Chef de Zone* argued,

the biggest problem is that they don't give us money. For example, for the fourth trimester of last year we had to do certain activities, but they didn't even give us fuel. How would you want us to do any interventions if there is no fuel or no financial support? The attitude of UNICEF now, has to do with earlier problems in this office [there was a case of fraud under the previous *Médecin Chef de Zone*], but in the end, their decision to cut our funds was a unilateral decision by them [...] If they support you, you are a slave to their decisions. And their decisions run counter to the interest of the communities.

This context does not facilitate strategic and sustained partnerships between UNICEF and government actors at various levels.

BUREAU DE LA ZONE DE SANTÉ – RIGHTS-HOLDERS

That villagers do not see themselves as equal partners of the *Bureau de la Zone de Santé* is illustrated by the fact that several committee members indicated that they would prefer to have more visits by the Bureau because “the presence of these authorities strengthens our morale” (interview V2). However, the ad hoc nature of the visits by the *Bureau de la Zone de Santé* also makes strategic partnerships difficult. Rights-holders (V2, V4, V5, V8) indicate that there is no predictability and that the relation would have to have a more predictable and permanent character to be more effective. This is a relatively modest request in some cases¹³⁶, but more far-reaching in others¹³⁷. In one of the villages in this study (V6), the request for follow-up seemed so prominent that it raised questions about the potential of the village to act autonomously, and suggests that the only reason why they would change their behavior is because they fear that they will be checked upon, not because they genuinely see the benefits of it¹³⁸. As one of the committee members declared,

¹³⁶ “We want to see someone at least once per trimester”. (VC4)

¹³⁷ “We would need permanent follow-up, because otherwise we forget what we have to do or why it is important”, or “Then we know that we really have to put that what we have learnt into practice because they can come and control us at any time” or “ We need to be followed in every step of the project”. (VC6)

¹³⁸ When asking the committee president of this village (V6) if he did not feel as if they had their own responsibility and did not see the relative absence of the *Bureau de la Zone de*

We favor a '*politique de proximité*' [...] If this [hygienic behavior] were an obligation and we would be fined for not doing it, it would stick. But now they only offer advice. It's not that we want a system of fines. We think awareness-raising is the best strategy, but to raise awareness, you need to do more than just passing in a village every once in a while.

IMPLEMENTING PARTNERS – RIGHTS-HOLDERS

With regards to the relations between the implementing partners and the rights-holders too we see an imbalance in the power relations, in the sense that implementers are aware of their position of power, of the relative isolation and dependence of rights-holders, and of the fact that the latter do not have easy access to accountability mechanisms or systems for legal redress. This hampers the creation of equitable relations. If we assume that a genuine partnership is not possible in a case where one of the two partners find themselves in a position of vulnerability and/or dependence towards the other, we would need to see village committees which can demand respect from government agents or implementing agencies. Due to cultural, historical and contextual factors however, local leaders are often not considered as equal partners, neither by government and implementing agents, nor by UNICEF. More attention for reciprocity and for developing transferable skills amongst local rights-holders, could be part of a solution to this. As we demonstrated above though, this type of skills training is not foreseen in the program, and the only training programs which were offered envisioned the transfer of knowledge from one party to the other, which is in itself pinned on the assumption of an asymmetric relation. This means that a relation of dependency continues, which often strains the potential for developing genuine partnerships¹³⁹.

Santé and UNICEF as a potential chance to take ownership over the project themselves and to act more autonomously, he does not seem to be interested in this, and discards the argument. Also the president of another village discarded the argument that program officers might want to avoid being patronizing and argues that the insufficient follow-up merely has to do with the fact that they are just not interested.

¹³⁹ In one of the villages in this study, the Bureau de la Zone de Santé told villagers that they would provide the external materials for four wells, and asked the villagers to collect local materials (sand for example) for four wells. In the end though, they decided to only provide the external materials for two wells, without prior notification, meaning that the villagers' additional efforts had been in vain. This strained the relationship for the future, left the villagers in a position of dependency and no options were provided to facilitate the construction of two additional wells.

STAKEHOLDER NETWORKS

Next to the relation between the government and UNICEF, between the rights-holders and the implementing partner, and between the rights-holders and the *Bureau de la Zone de Santé*, there is also a possibility for facilitating partnerships between different groups of rights-holders. There is ample discursive attention for this (see, for example, UNICEF DRC 2012e). However, there were no specific mechanisms for facilitating partnerships in the first phase of the program. In the second phase, some mechanisms for fostering partnerships and networks between local actors are foreseen, such as meetings of the Village Committee presidents. This was not part of the program in Phase I. The decision to foresee such meetings in the second phase, is inspired by a suggestion of the SNV, which, during a pilot project in the Bas-Congo, brought together five nearby villages for evaluations and monitoring, in order for stakeholders to get to know each other, learn from each other and remain motivated. As an officer of the SNV argued, this added a new dynamic to existing community dynamics, without trying to create entirely new structures (as was attempted to no avail during the first phase of the *Villages Assainis* program, by installing new committees etc.). As one of the *Médecins Chef de Zone* (MCZ 9) stated, the signals from UNICEF are mixed though, and whereas the discourse of partnerships is more prominent in the second phase, there are still many instances in which partnership mechanisms are missing or are not implemented.

In the beginning, the *Villages Assainis* project was very vertical, but that has now changed a lot. They [allegedly referring to UNICEF] understood that they needed to include all the actors on the ground as well as the responsible ones in a network. We don't have any meetings for the whole district, neither at the level of the *Bureau de la Zone de santé*, nor at the level of the villages, and that's a pity, we have asked for this very often, because it is really a chance to learn from experience. There are for example some villages where something works whereas in another it doesn't work. It is more credible if they hear an advice from their peers than from us who are not part of their peer group, we don't live their realities. The others are their colleagues. That would really help for those who are not very advanced yet, and it is an encouragement for those who are doing good. Also meetings between the agents of the different *Bureaux de la Zone de santé* don't exist. We make our own analysis and then sit together with this bureau to analyze that, but that's all. That's a pity, because we also don't get a chance to sit together with other *Médecins Chef de Zone*, and really, something that is a problem for me could very well be something for which someone else has already found a solution. We don't need to invent solutions if they already exist elsewhere. We have already

proposed this several times verbally, but so far, nothing has happened. There are no structures to learn from each other.

However also when implementing a strategy for establishing networks amongst villagers in the second phase, caution is warranted, because, as the committee president of one of the villages argued, “this is not something which the villages desire”. Also other committee members in other villages did not see the lack of exchanges between the different villages as a shortcoming of the first phase, or argued that they had their own ad hoc systems for exchanging experiences. As one of the committee presidents argued, user networks without the involvement of actors at other levels will not be useful, since all villages face the same problem, and no one has a solution. So this measure too may be perceived as externally imposed¹⁴⁰.

CONCLUSION

Overall, we see that UNICEF’s focus on partnerships and networks has become stronger in the design of second phase, but that this is still a very fragmented approach, and that the issue of financial dependence, unequal power relations and uneven expertise with these kinds of programs are not structurally addressed. The overweight which UNICEF has due to its dominant financial contribution to the program make it questionable whether its discourse of government-as-a-partner is tenable at all, and is not just a mere façade to divert attention from its own responsibility as a driving force in this program. Moreover, the second phase makes no provisions for the type of networks which allow for genuine partnerships between actors at different levels. While there are some users’ groups of rights-holders, there are still no structures in which rights-holders (or their direct representatives) can get directly in touch with program officers of UNICEF or government. As the experience of the SNV showed however¹⁴¹, this is one of the most effective ways to ensure accountability and empower people. This suggests that the way in which UNICEF has adapted the concept of strategic partnerships to the local context is too fragmented and ad hoc to foster positive results. A more encompassing understanding, as is

¹⁴⁰ Note that in one of the villages in the Bas-Fleuve, the treasurer indicated that the village was already part of such a network which represented their interests *vis-à-vis* government, the ‘Association d’Assolongo’.

¹⁴¹ In the course of their consultation exercise, at several points they brought together presidents of Village committees, staff of the *Bureau de la Zone de Santé*, officers of UNICEF Matadi and UNICEF DRC, and staff of the B9 and D9 to probe where the main problems lay.

proposed in the Capacity Development Resource (UNDP 2006) seems to be necessary to facilitate an integrated change.

5.2.12. THE PROGRAM CREATES A SYNERGY BETWEEN BOTTOM-UP AND TOP-DOWN APPROACHES

The UN Common Understanding (UN 2003) sees the combined use of both bottom-up and top-down approaches as a crucial element of a HRBAD. This inspiration is clearly visible in the structure of the *Villages Assainis* program, which is, in principle, pinned on a demand from below. On paper, rights-holders decide whether they want to adhere to the project, and how they want to implement it. One of the WaSH officers in Kinshasa stated that,

[t]his is one of the only programs of UNICEF that really has this *approche communautaire*, even if there are a lot of things to improve and a lot of things that can be criticized. But all the other programs are really much more top-down, with messages that come from the top and go to the bases, where there are no focus groups which are aimed at better understanding the information which the communities have. So at least the *Villages Assainis* program has this community based approach where we ask the communities to make their own diagnosis and analysis of their own situation in a participatory effort. So we really try to involve the communities. It is the only program of UNICEF that does that. [...] The village should find the solution. They should find what works best for them, because they know their problems. And we have instruments for that, like the *boîte à images* and the *three pillars structure*, which allow them to develop their own plan, at least in theory.

Interviewees in six villages indicated that also in practice the approach incorporated bottom-up elements in the sense that interventions were perceived as interactive by rights-holders. However, the definition of 'interactive' should be critically assessed, as most interviewees defined this as trainings leaving room for them to ask practical questions and express desiderata (which were then usually not taken into account). In other villages moreover, interviewees insisted that the interventions, and especially the learning process, were genuinely uni-directional and that there was no consultation. They moreover lamented that the type of knowledge which was transmitted was not per se useful for them and did not allow them to take action when they experienced a problem with their water point.

Several interviewees (e.g. CO1, NG1, NG2) and reports (e.g. WaSH DRC 2013p) confirm that the bottom-up approach existed mainly on paper, and that, in practice, the program remained highly directive in the first phase. A senior interviewee (CO1) acknowledges the very top-down way of doing things – especially in the first phase of the program – but refers to the history of colonization and the *attendisme* of people to explain why this was the case. In Phase II, more attention will allegedly be paid to implementing these bottom-up approaches and learning from the local level – a dimension which was absent before. However, even if this problem is partially tackled in the second phase, the issues on which rights-holders can have their voices heard are still rather limited. Participants are for example consulted on the type of pump and hand-washing system they want, but there is no possibility for them to contribute on more structural decisions or to have their voices heard on strategic matters. The grand strategy of the program is still written at the level of the country office, and even if the second phase is based on a comprehensive Action Research in which some reports tried to amplify the voices from below, there is no systematic or predictable way in which local actors can reach out to UNICEF officers. As a junior officer at the country office (CO2) argued, this challenges the overall relevance of a HRBAD,

I think it [the rights discourse] can be an engine for people to fight and to keep the waterpoints in good condition, and to wanting to develop their own water points, but I don't think that it's something which can... Well, as long as it is top-down, I don't think it can be a method which is infallible, on the contrary.

In sum, UNICEF's WaSH division has adopted the bottom-up approach on paper, but has hardly operationalized or implemented any mechanisms for genuinely bringing it into practice. While the second phase aims to increase attention for bottom-up processes, it does not engage in the more structural effort of reconceptualizing how and on which issues local voices are used as a guiding frame. This is indicative of a more general problem which the program seems to face, namely that its inclination to adapt elements of the general HRBAD to the local context has in practice mostly led to a scaling down and a more narrow interpretation of these elements, which has had effects for the overall effectiveness of the program with regards to furthering people's right to water. We elaborate on this in the concluding section of this chapter.

5.3. DISCUSSION AND CONCLUDING REMARKS

Our fieldwork revealed several facts about the implementation of a HRBAD in the *Villages Assainis* program in the Bas-Congo province of the DRC. In this concluding

section, we first visualize these findings and then summarize our key findings regarding the implementation of the HRBAD. We use this as a basis for a reflection on the meaning of the HRBAD more broadly, and on how the priorities and strategic choices made in this program influence the effectiveness and legitimacy of a HRBAD within UNICEF.

Figure 15 visualizes how much attention the *Villages Assainis* program pays to each of the twelve dimensions of the HRBAD, in discursive terms (blue), in terms of developing mechanisms to facilitate the operationalization of a dimension (red), and with regards to the actual implementation of these mechanisms (green). The surface of the blue field, shows that there is still a considerable amount of rhetorical attention for the HRBAD in the *Villages Assainis* program. What is striking though is the near total lack of attention for issues regarding the politicization of development interventions, such as the capacitation of rights-holders to claim their rights. The surface of the red field illustrates that a first problem arises when translating this discursive attention into operational measures, and the green field, which is even smaller, indicates an even more substantial problem regarding the implementation of those mechanisms which are in existence. Below we elaborate on these different dimensions.

The graphic shows that several elements of the HRBAD are prominently present in the Village Assainis program, whereas others are virtually absent. Those elements that are specific to a HRBAD get the least attention, while elements within the HRBAD that are common to other approaches to development are dealt with in a better way. The participation-rhetoric for example is at the heart of the interventions and equality and inclusion feature prominently in the discourse of interviewees as well as program documents. These are elements which are also emphasized in a CATS or under the equity paradigm. Other elements are notoriously absent. It is for example unclear how the concern with human rights is used as a concrete organizing principle and how this structures interventions. Human rights concerns do not feature in training modules or monitoring and evaluation, and often the human rights discourse is used as a mere abstract justificatory discourse, or as the equivalent of other discourses, such as the needs-based discourse, or the discourse of community approaches or inclusivity, which each only stress one element of the HRBAD, and do not paint the entire picture.

Another element which is systematically omitted from the discourse, is that of politicization. UNICEF presents itself as a partner to the DRC government and argues that it cannot impose conditionality upon government or make other overtly political claims because of this. Hence UNICEF DRC focuses on pushing for legal changes or

official declarations, and on capacitating government by offering logistical and financial assistance, but, because of this, it remains dependent on government's goodwill to actually realize human rights. There is nothing in the program that is remotely politicizing development. Also UNICEF's attempt to capacitate rights-holders is exclusively focused on capacitation in terms of gaining practical and technical knowledge and skills, but there is no capacitation of rights-holders to claim their rights, as a HRBAD prescribe. Officially, this choice not to focus on rights claims is a consequence of working as a partner with government – a government that is moreover not responsive to human rights claims – which precludes any kind of confrontational approach. This is hard to defend however, because in other respects, such as implementation or monitoring, UNICEF does not behave as a partner of government. Instead, it seems to adopt the partnership discourse to justify a hands-off approach with regards to certain issues. The lack of attention for the issue of claiming rights also fits a more general neoliberal inclination within the organization, by which water is no longer presented as a right which can be claimed, but as the individual responsibility of actors or as a service which has to be paid for. This is in line with the SanMark paradigm.

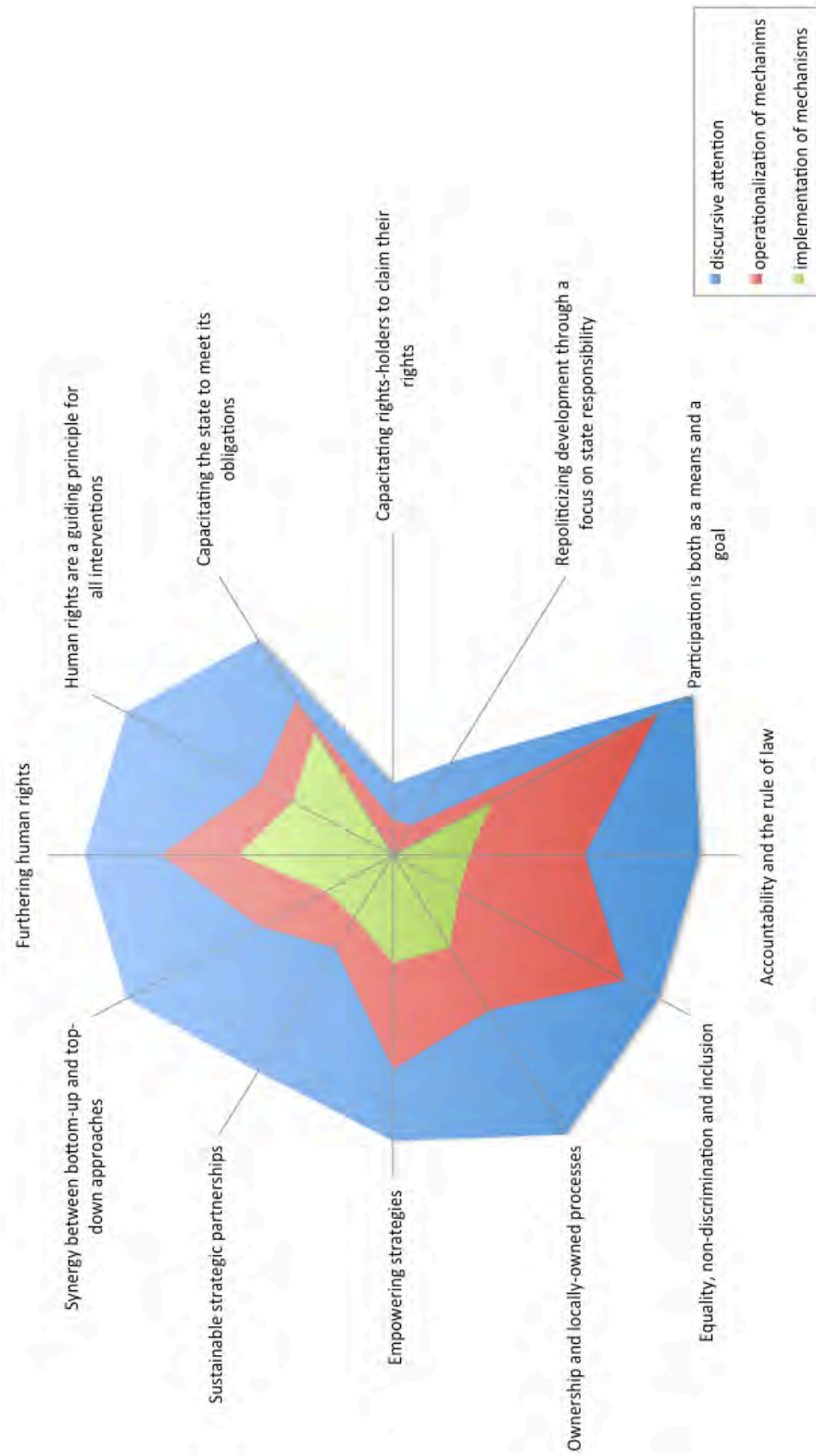


Figure 15 Overview of the HRBAD in the Villages Assainis programme (own elaboration)

This is also related to the issue of participation, a dimension which, even if it is crucial in the program, shows many deficiencies. One of them is the fact that voluntary participation is difficult to demand of people, but that paying people for their participation would also imply asking a payment for access to water and would jeopardize local ownership, which raises a whole different set of issues. Moreover, participation is conceived of in a very pragmatic manner, with people participating in the execution of the program, but not being involved in the design of the broader framework nor having a voice on strategic decisions. This means that the empowering potential of participation is largely lost. This is added to by the fact that implementing partners and *Bureaux des Zones de Santé* are often not trained appropriately, and thus do not adequately pass on the message about the added value of a participatory approach. Many interviewees see their participation in the program as a decision by the implementing partners to cut costs rather than as an empowering element.

Also empowerment and ownership are therefore low. This has to do with the fact that, on paper, the program combines bottom-up and top-down approaches, but that, in practice, it is still largely top-down and highly directive. The difficulties with fostering ownership are added to by the fact that the material realities of rights-holders often do not allow them to take matters into their own hands, and that there are several cultural elements which do not easily fit the logic of the *Villages Assainis* program which have been ignored in the first phase. These elements will allegedly be taken up in the second phase.

A last finding is about the dimension of equality and inclusivity, which is very present in the discourse of all actors, but which, like participation and human rights, seems to be adhered to only discursively speaking. Mechanisms for ensuring inclusivity – like the three pillars structure – are not systematically implemented, and those measures which are implemented (like quota) often do not resonate with local needs, perceptions and practices, but are imposed in a top-down manner by UNICEF. This is also indicative of the disproportionate influence that UNICEF has on decision-making. This power imbalance makes it difficult to speak of actual durable partnerships within the program, between UNICEF and government, between the different levels of government, between rights-holders and implementing agents, between rights-holders and the *Bureaux des Zones de Santé*, etc.

In sum, some elements of the HRBAD are strongly advocated in the *Villages Assainis* program, whereas others are almost entirely omitted. Of those HRBAD dimensions which feature in the *Villages Assainis* program, it is unclear whether there is any attention for them beyond the discursive attention, and whether they are

interpreted in line with the Common Understanding (UN 2003). There seem to be improvements in this regard since the introduction of the second phase, but since no insight in program documents was granted by the country office, it is not possible to make definite remarks about this. The implementation of the *Villages Assainis* program, in other words, seems to adhere to a particularly narrow and 'light' interpretation of a HRBAD, which makes it questionable whether we can still speak of a HRBAD at all. Some interviewees interchangeably use the notions of HRBAD, a needs-based approach, a demand-driven approach or a community-based approach when referring to interventions in *Villages Assainis*. This arguably affect the legitimacy of a HRBAD and undermines its core principles.

In the *Villages Assainis*, the HRBAD is still the formal framework for interventions, but our fieldwork showed that this is mostly mere discourse. Human rights concerns and several other core components of the HRBAD do not feature in the program documents, the Action Research or the interviews with UNICEF DRC staff members or with *Médecins Chef de Zone*. It is thus safe to argue that a genuine HRBAD has not been implemented in this case, probably due to a combination of contextual factors and the fact that this was not actively demanded by UNICEF's headquarters. Several interviewees also argued that low levels of engagement with a HRBAD can be explained by the fact that this paradigm does not resonate with local reality, arguing that rights-holders have a stronger interest in the immediate fulfillment of their practical needs than in creating an enabling environment to facilitate their strategic needs, and that it does not pay off to implement this paradigm in this case therefore. Since this approach has never actually been implemented however, these claims are hard to sustain, and the decision of the country office to turn to new approaches (like a demand-driven SanMark approach) seems equally unfounded, as these approaches too have been conceived of top-down, and might not be relevant in the local context. Introducing new paradigms to replace the HRBAD moreover seems odd, since the latter has not been properly implemented until present in the *Villages Assainis* program.

The fact that UNICEF's DRC country office has never explicitly engaged with the operational models for implementing a HRBAD which were developed by headquarters in the early 2000s thus seems to be related to the absence of pressure or incentives to do so from the side of headquarters, but also to the fact that this country office sees itself as a technical partner of government rather than as an implementer of programs. By imposing the entire burden of implementation upon government agencies which currently do not have the capacity to manage this process in a responsive, accountable and transparent manner, UNICEF jeopardizes

the effectiveness and legitimacy of the program, and puts itself in a position where it cannot be held accountable. This apparent refusal to acknowledge its own accountability and responsibility in this program is justified by interviewees of the country office by arguing that playing a more prominent role would harm government's ownership of the program.

This report explicitly challenges this logic, and argues that – especially when working in fragile states – UNICEF should be more involved in the execution of the program, so as to ensure that interventions abide with human rights principles. Currently, UNICEF limits its own role to designing the program. However, since it takes no part in the execution and takes a markedly compromising attitude vis-à-vis government, it cannot guarantee that the priorities of the programs which they themselves designed are brought into practice. The responsibility for protecting and realizing human rights is placed with a government that shows no interest in this issue, while UNICEF itself takes no action in this regard. Government actors are held accountable for a number of practical issues, but not with regards to human rights, making any progress in this domain unlikely. This inconsistency on the side of UNICEF raises questions about the extent to which donors who only wish to assume a role as a technical partner can ever credibly adopt a human rights discourse, as well as about the accountability and human rights obligations of UNICEF itself (for an elaboration, see Russell 2010). Moreover, this case study suggests that it might be useful to refrain from calling this a HRBAD altogether, and to reserve this notion for programs that have a more explicitly politicized outlook. This would mean that we acknowledge that a human rights concern is an inspiration for this program, but that the program is not, in its methods furthering human rights as much as it is trying to protect people's basic needs. Making this analytical distinction allows us to reserve the notion of a HRBAD for those programs that envision long-term structural changes and work on the strategic needs of people in a more systematic way – a role which technical partners might never be able to fully take on.

6. LOCALIZATION IN THE VILLAGES ASSAINIS PROGRAM

*“There is a double difficulty:
It is difficult to hear all the voices from below,
and then it is difficult to pass these on to other levels.”*

- WaSH DRC Officer

In this chapter we link our empirical analysis of chapter five to the theoretical section on localizing human rights in chapter three. We assess whether the perspective of localizing human rights can enrich our implementation study on the HRBAD, and what the scope for localizing human rights is in human rights-based projects.

To assess these issues and their theoretical implications, the chapter is divided into two analytically distinct sections, a first one which discusses the idea of localization in general and a second one which zooms in on the localization of human rights. In section 6.1, we apply the notions of contextualization (adaptation of existing norms to the local context) and upstreaming (adaptation of universal norms on the basis of input from below) to this case of the *Villages Assainis* program, and assess whether there is localization of the overall program and of the HRBAD in particular¹⁴². In section 6.2, we zoom in on the dynamic of localizing human rights, and engage in a theoretical reflection about the potential for localizing human rights in interventions like these, thereby discussing some of the conditions for localizing human rights.

6.1. UNDERSTANDING VILLAGES ASSAINIS FROM A LOCALIZATION PERSPECTIVE

In the theoretical section, we discussed the localization of human rights as well as the localization perspective more generally, and zoomed in on the notions of contextualization and upstreaming. In this section we first assess whether either of

¹⁴² When referring to ‘the local level’, we consistently make the analytical distinction between local rights-holders on the one hand and the UNICEF country office or provincial office on the other hand. So when asking whether and how the country office’s contextualized version of a HRBAD finds its way to the level of headquarters for example, we will refer to the country office and provincial office as ‘local’ actors in the sense that this field office is embedded in a local reality and has adapted its program to this local reality. When discussing the interests of rights-holders on the ground however, these offices should be seen as the intermediary level, which processes input from the local level which are the individual rights-holders.

these two processes are in general taking place in the *Villages Assainis* program, and then gauge the extent to which contextualization and upstreaming occurred specifically with regards to the HRBAD. In other words, we first assess whether there is an interest in localization and whether any localization of interventions took place in general, and then assess whether there was also localization regarding the HRBAD in particular. This way we probe whether the localization perspective can add to our understanding about why a certain type of interventions has been prioritized within this program, i.e. whether localization is the reason for adopting a scaled-down version of the HRBAD in the *Villages Assainis* program.

The *Villages Assainis* program is relevant to assess the question regarding the localization of the HRBAD because of the idea of the HRBAD that development ought to facilitate the empowerment of rights-holders from the bottom-up (UNICEF 1998). In this program, we can expect to see a focus on the grassroots level, and more specifically, on how this grassroots level can interact with other levels. The HRBAD explicitly seeks to take into account local sensitivities and to upstream input from below (UNICEF 2012a, UN 2003), and so does the UNICEF country office (WaSH DRC 2013). Moreover, since UNICEF has been involved in this project since 2006, we can expect to see the impact of contextualization and upstreaming, if this has taken place. The focus on contextualization and upstreaming in this section, renders the discussion relevant beyond the human rights debate.

6.1.1. LOCALIZATION WITH RESPECT TO THE VILLAGES ASSAINIS PROGRAM IN GENERAL

Our documentary resources as well as the interviews with staff members at the UNICEF country office suggest that there is an interest in contextualizing interventions, both in a formal and an informal manner. This interest seems to be inspired by local officers' own concern as well as by instructions coming from headquarters. The large-scale evaluation commissioned by UNICEF in 2012 for example encourages country offices to adapt their strategies to the country's particular context arguing that this leads to a stronger engagement with government institutions and/or to greater engagement with local community partners (UNICEF 2012a). The same report also refers to upstreaming on different occasions. In this section, we assess whether this general interest in contextualization and upstreaming at the level of headquarters and the country office also materializes in the context of the *Villages Assainis* program, and argue that there is a limited degree of contextualization with regards to practical issues, but not with regards to more structural aspects of the program. Instances of upstreaming local concerns are much less present in the sense that most efforts at contextualization are rooted in the assessments of the country office and not per se in the realities of local rights-holders.

UPSTREAMING

Adapting to local realities does not per se mean that local voices have been listened to and incorporated. We do not consider instances of adapting to the local context as a genuine form of localization if local actors were not offered an opportunity to provide input or if their input was not taken into account. This is a precondition for localization. So far, there is only one instance at the level of UNICEF's country office where local rights-holders have been explicitly consulted on issues other than their potential to make material contributions, namely the ECRIS study of the Action Research (WaSH DRC 2013p). This study was aimed at increasing the country office's understanding of local issues rather than merely gaining information about technical matters in a way which does not require the participation or consultation of local rights-holders. The ECRIS study (2013p) actively probed for local understandings of WaSH issues and sought to rethink UNICEF's own assumptions underlying the program. At first sight, it takes a more critical attitude towards the existing intervention logic, which has been mainly top-down and which did not foster a genuine interaction with local voices. While this could at face value be interpreted as an interest in upstreaming and contextualization, the ECRIS report creates the impression that the input of local actors was mainly sought and upstreamed to foster more support for the existing program and to ensure appropriation, rather than to genuinely develop the program from the bottom-up. Also in this report, there is hardly attention for the kind of input that could help UNICEF to rethink its interventions in a more profound manner. Moreover, it is difficult, at the time of writing to gauge the impact of this report in practice, since the second phase was just commencing and since not all program documents were made available. Based on the interviews, it is safe to conclude that some practical changes have been made on the basis of this study (e.g. the installation of meetings between rights-holders of nearby villages or the provision of more contact details of project partners), but that the overall structure and philosophy of the program has not changed significantly in response to this report. Several officers were not aware of what the content of this specific report was, and only worked with the technical reports that dealt specifically with their area of expertise. The ECRIS report was considered too general by some interviewees to be directly relevant for them.

Most upstreaming tools create the impression that the aim is not so much to actually listen to the voices from below, but rather to obtain input which can fulfill UNICEF's information needs. The learning tool on consultation in one of the Action Research reports (WaSH DRC 2013i) clearly illustrates this. In this learning tool there is a detailed description of how to interview people. However, questions only enquire about the material situation, and thus about information which UNICEF needs in

order to fulfill its own reporting duties to headquarters, rather than about more general concerns or social norms¹⁴³. The questions do not ask about *the reasons* why people do (not) pay, or why they do (not) maintain the well, nor do they enquire about their assessment of why things are (not) functioning well.

So while there is a limited number of tools for seeking input from below, these tools do not focus on strategic or conceptual matters, such as the impact of the program on people's lives, on their sense of empowerment, or on their human rights norms and practices. The information coming from these consultations is potentially useful for operational purposes¹⁴⁴ because it provides up-to-date information about the realities on the ground, but it does not allow for a genuine rethinking of certain assumptions. Even a consultation carried out in the frame of the Action Research, regarding the solutions which participants see for their problems, was framed in a way which only probed for immediate practical problems and solutions, without enquiring about structural problems¹⁴⁵.

Despite this limited engagement with voices from below, almost all WaSH officers at UNICEF's country office expressed an interest in obtaining input from local stakeholders with regards to issues directly relevant to the implementation of the program. None of them expressed an explicit concern with seeking the input of local stakeholders on conceptual or structural issues however.

Moreover, upstreaming is not only problematic at the level of local rights-holders. Also local authorities indicate that they do not feel heard by their own directorates or by UNICEF. One government official of the Ministry of Health mentioned that when he worked in a provincial office, there was no means for them to provide input for UNICEF's plans. He said that,

¹⁴³ How much do households contribute? How many households use the well? How much is in the cashier? How much money do you spend on medical costs? Which resources can the community invest in WaSH? What type of activities does the committee carry out?

¹⁴⁴ What type of water treatment do people prefer? Reasons why they do not use soap to wash hands? Reasons why they want better latrines?

¹⁴⁵ Examples of proposed solutions to existing problems were to ensure that every family has a garbage bag, ensure that people have an awareness of their environment, install a system for public waste collection, establish a committee of management which has more authority, etc.

I only saw the text [the new strategic plan] when it was already finished. Everything was there already. Maybe others could contribute in that, but we couldn't. The document was finished. If this were a document by the government, it would have been handed out by the government, to the provincial level. But it remained where it was for a long while first [referring to UNICEF country office]. And maybe that was also their strategy. They [UNICEF] maybe wanted to only share it with the government agents at the highest levels first to ensure that these would really understand it, but since the ideas came from elsewhere, it took some time before they were really absorbed. Today we are going in the direction of a better appropriation, and our [government's] managers are also appropriating it more, they are putting it into practice themselves now. [...] at the provincial level, it is still often UNICEF which is decisive¹⁴⁶.

The problems with upstreaming are however related not only to the national and subnational level, but also to the policy of UNICEF headquarters, which did not foresee solid mechanisms for upstreaming local voices. There are some limited possibilities for local rights-holders to be heard by higher decisions-making levels, for example when reporting an emergency through the U-Report system. As we show in section 6.1.2, there are no such mechanisms to upstream voices of local rights-holders with regards to more strategic concerns of structural problems.

CONTEXTUALIZATION

At the level of the country office, there are several programmatic documents which advocate the consultation of local stakeholders in order to facilitate responsive planning on the basis of local stakeholders' needs (for example WaSH DRC 2013p, 2013h, 2013k). As the Action Research reports state in the method section, the goal of this evaluation is to take the experiences of the participating provinces into account in future planning (2013o). Also the very structure of the program facilitates contextualization. The 'step-by-step' approach foresees that rights-holders take the initiative to manage the project, and that they decide on the timing and content of each next step in the intervention. This structure also assumes that local rights-holders in each step of the process define what the priorities of the village are, and how they want to proceed to achieve these. The goal of this stress on citizens' initiative is to ensure that the program fits the local realities and that it receives

¹⁴⁶ This interviewee however argued, that even though they did not have much influence on how the program would develop, he and his colleagues did not experience this as a problem per se, because they felt well represented by the national government.

broad support (MinSan and MinEdu 2010). On paper, the standard operational structure of the program thus foresees ample opportunities for local rights-holders to adapt the process to their own realities, and is probably the most important tool for contextualizing the program. As Figure 11 demonstrates, input from local stakeholders is supposed to steer the eventual execution of the project¹⁴⁷.

However, while most interviewees asserted that they feel ‘listened to’, they replied negatively to the question whether they felt the program changed in the direction which they proposed, i.e. if anything happened with their input. This means that the concept of being ‘listened to’, does not per se say anything about the extent to which the program is actually being implemented in a locally relevant manner on the basis of the voices from below. This suggests that either there is no genuine interest in the input from below, or that there are no adequate mechanisms for incorporating this input. Here as well, a difference between the rhetoric on contextualization and the implementation thereof can thus be discerned.

Also documents and evaluations which appear to have a strong bottom-up element at first sight, are not per se based on *voices* from below, but rather on the *material realities* on the ground, i.e. fact-finding missions rather than consultations with stakeholders are organized to identify problems and strengths. The Action Research for example mainly investigates technical problems, practical concerns and planning suggestions, rather than probing for local rights-holders’ own interpretation of what their needs and interests are. The Action Research thus presents a *status quaestionis* which caters to UNICEF’s information needs, rather than envisioning a genuine contextualization of the program¹⁴⁸. The interest in local realities thus seems to be mainly inspired by a pragmatic concern. This may lead to changes in the margins, but has little potential of triggering a more genuine critical reflection.

So, despite a considerable scope for contextualization of the *Villages Assainis* program on paper, there is very little contextualization regarding the overall process and approach of the program in practice. Moreover, the *pas-à-pas* process itself has not changed since UNICEF proposed it to government in 2006, and constitutes a

¹⁴⁷ The Action Research (2013p, 2013h) found that this structure, was not always applied in practice however and that often the initiative to adhere came from the *Bureau de la Zone de Santé*, which also took the lead in the planning and execution of the program. In some cases this led to the execution of decisions which went against villagers’ own suggestions and which later turned out to function poorly.

¹⁴⁸ For an overview of the Action Research and its constitutive reports, see appendix 6.

largely top-down imposition. Local rights-holders still do not usually feel ownership over a program whose structure is decided upon elsewhere, and which merely adapts to their material realities in the margins, if at all.

The same problem exists on the side of lower level government officials, who do not feel as if the program is adapted to their input. One *Médecin Chef de Zone* (MCZ4) argued that he often made suggestions to the government's B9, but that nothing happened with this, either because government is unresponsive, or because UNICEF does not provide funds for adapting the program in the proposed direction. The interviewee illustrated this with an example.

We are four actors here on the ground, there is the *Médecin Chef de Zone*, his assistant, the *Animateur communautaire*, and his assistant. That worked very well. All these people spend two thirds of their time in the field. Now they wanted to only give us the money for two employees, because they had analyzed the results and said that there was no real added value in having two assistants. We told them that this wouldn't work, that we needed four people. But UNICEF decided to go along anyway. We didn't really take action. We told it to the B9, but they didn't fight for it either, and we too understood that it's UNICEF that gives the funds, and the voice of the strongest is usually the best [laughs bitterly].

Furthermore, it should be remarked that some WaSH officers were more reluctant to adapt the approach to the realities of local rights-holders altogether, not just because logistically speaking this is difficult, but also because of a belief in a more top-down approach. As a UNICEF country officer (CO3) replied when asked whether the indicators had changed in response to the suggestions in the ECRIS study the interviewee argued that this had not been necessary, as the monitoring and evaluation tools “were pretty sound from the start” and that comparability across countries is more important than reflecting the nitty-gritty of each country in a manner which renders the total picture unsurveyable. Whether these universal tools can adequately reflect local realities is questionable.

Some of the *Villages Assainis* program partners however proposed a more encompassing interpretation of contextualization. The Dutch Technical Cooperation (SNV) for example, expressed a strong interest in developing the process on the basis of local voices, in order to make it more locally relevant. As an officer of the SNV (SNV1) argued,

We should adapt to their habits. We're working for them! You should not make people get used to things which are not to their advantage. Why would you do something like that? But this is what often happened, and this is why in many villages it [the program] isn't working, and that is our responsibility.

Several interviewees acknowledged that the SNV's genuine concern with contextualizing the program has had positive results. One *Médecin Chef de Zone* (MCZ6) argued that in the first phase, UNICEF did not express an explicit concern for local sensitivities, whereas the SNV, upon entering the program in 2013, did. This, according to the interviewee led to tangible positive results¹⁴⁹.

As we will show later in this chapter, despite a principled concern with contextualization and some consultation processes in the frame of the Action Research, the intervention logic and process of the program has largely remained unchanged, and there has not been a genuine bi-directional communication with regards to programmatic concerns, core concepts or underlying assumptions of the program. So only with respect to marginal practical issues did contextualization take place, and this contextualization was not per se always based on consultations with rights-holders, but rather on an assessment of their material realities. In these cases, where the country office for example upstreams technical information that is not based on local rights-holder's own input, we do not speak of genuine upstreaming, as the first link in the chain of upstreaming is absent.

CONCLUSION

In order to obtain relevant input on local sensitivities which allows programming officers to adapt the program and rethink it in a direction which is more locally relevant, voices of local rights-holders need to reach those in charge of the planning. Due to a highly tiered structure – which exists in spite of a discourse of decentralization and participation – and the absence of networks this is not always the case. There is a limited degree of upstreaming and contextualization with regards to technical and practical matters, but from the fieldwork it appears that a substantial amount of the information gets lost in translation during this process,

¹⁴⁹ In this collaboration, as the interviewee (MCZ6) argues, the SNV, like UNICEF, first looked at whether the formal *Villages Assainis* parameters had been implemented and were still being lived up to, and then, unlike UNICEF itself, the SNV actually consulted the committee members on what went wrong and why this was. The interviewee describes this as a much more genuine exchange of ideas, and as a genuinely collaborative effort to develop an action plan, whereby the initiative was really with the Village Committee throughout. SNV's strong presence in the field seems to be highly important in his assessment of their success.

and that it is only the content that is most easy to travel in these structures – i.e. technical and quantifiable information – which gets upstreamed, and which holds the potential of leading to a contextualized version of the program, meaning that only with regards to technical issues, local realities are potentially used as an inspiration for the planning at the national level. The transnational level adopts a different logic when planning technical innovations altogether and does not explicitly seek to base this on the voices of local participants. There are ‘innovation networks’ at the level of headquarters, but there is no feedback mechanisms between these networks and local rights-holders or their representatives, according to an officer at UNICEF headquarters (HQ1).

One of the most explicit interactions with local concerns is the ECRIS study however. However, this report too seems to be inspired by pragmatic concerns about how to implement pre-established goals in a more efficient manner rather than with a genuine interest in local level dynamics. One of the reports in the Action Research, the ECRIS study (WaSH DRC 2013p) shows that UNICEF DRC is aware of the societal characteristics and local dynamics. The report states that,

The knowledge which can be gathered through [a] bottom-up approach should be used to rethink our tools. This should lead to a new approach, i.e. a participatory approach based on local beliefs [...] The fundamental idea of this [classic participatory] approach is the transfer of knowledge and information, of norms and convictions which are at the heart of the VEA program and which should be transferred to local actors, who, in theory, absorb this information, adopt this knowledge system, apply it, and leave behind their existing beliefs. The multiple problems with this approach are however illustrative of the fact that this approach – which is currently at the heart of the VEA program – is not very efficient, not sufficient to reach the set objectives. At best, this approach will allow us to diminish some of the passive rejections [...] Therefore, in our opinion, the classical participatory approach needs to be revised. (2013p: 64)

Nevertheless, this report too proposes few structural changes – on the side of UNICEF – to integrate existing social dynamics in a fundamental way. While proposing some apparently genuine reconceptualizations of the existing approach, the report refers to these new participatory approaches as a means to implement the existing program more efficiently, rather than also revising the programs core principles. This indicates that its point of view is still largely top-down. While a visualization of this new approach (see Figure 16) suggests that, indeed, the goals of the program would be set on the basis of local social norms, the rhetoric in the

remainder of the report indicate that local beliefs are mainly taken into account to ensure a more swift appropriation of goals which are set top-down.

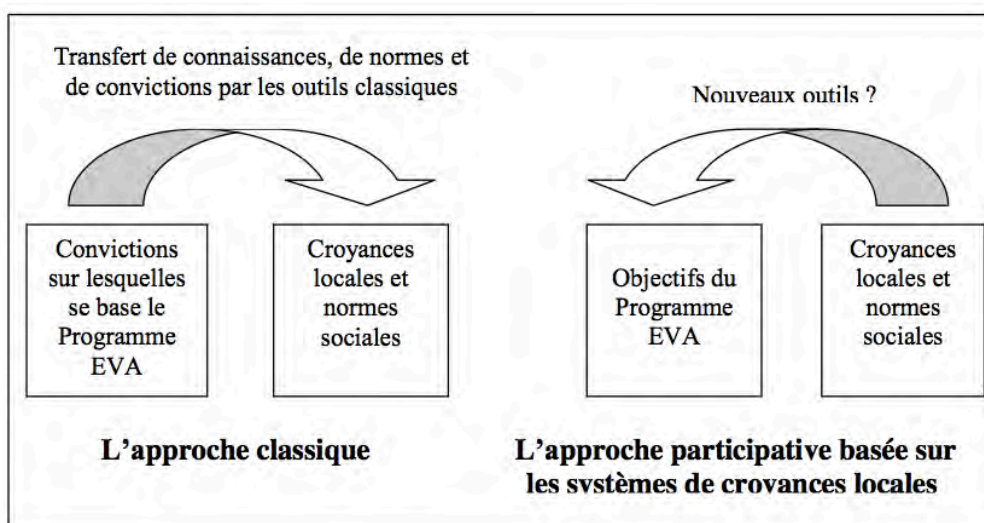


Figure 16 ECRIS's revised participatory approach (WaSH DRC 2013p)

This is also the interpretation of our interviewees at UNICEF DRC, that local specificities should be taken into account to lead to a more efficient adoption of existing goals, without these norms per se inspiring the goals which the program sets. As the report reads,

For the moment, we have to deal with local beliefs to improve life conditions in the villages more rapidly. At the same time though, we have to carefully and patiently try to change some of these local norms and beliefs in the long run. (WaSH DRC 2013p: 73, own translation)

One should thus exercise caution when interpreting the proposal to work from the bottom-up on the basis of local beliefs as a paradigm shift, especially since no clear operational consequences followed from this proposal, despite clear recommendations for reforms in the ECRIS study¹⁵⁰.

Thus, while the ECRIS study acknowledges the importance of adopting a more genuine bottom-up approach and of listening to local voices on technical matters for pragmatic reasons, there is no real moral or principled motivation for doing so in the

¹⁵⁰Some minor changes are implemented though like the organization of bi-annual meetings between participating villages, the search for culturally relevant 'anchor points' to base interventions on, the introduction of a new Carnet de Village with telephone numbers.

report, beyond 'making the program stick'. Moreover, it is unclear whether even this pragmatic form of localization regarding technical issues, which the ECRIS study proposes, has been put into practice on the basis of this case study. There has been no attention within the program for people's strategic needs, meaning that little guidance is provided for rethinking the program beyond the modification of some practical provisions. Upstreamed information fulfills UNICEF's information need rather than reflecting an engagement with local concerns as such. This raises serious questions about the extent to which this adaptation of the process is indeed based on the voices from below. In the next section we assess what it means for the potential for localizing a HRBAD that more strategic issues are not taken into consideration.

6.1.2. LOCALIZATION OF THE HRBAD IN THE VILLAGES ASSAINIS PROGRAM

Whereas the previous section discussed the localization of interventions in general - e.g. localization of the participatory approach - this section zooms in on the localization of the HRBAD in particular in the *Villages Assainis* program. We evaluate whether specific tools are foreseen to ensure that the HRBAD is applied in a culturally relevant manner which envisions people's empowerment. We thereby also assess whether the decision to tone down the HRBAD in the case of this program should be interpreted as an instance of localization. We argue that this is not the case, since there has been very little attention for the HRBAD throughout, and since no mechanisms are in place which could facilitate its localization.

UPSTREAMING

The localization of the HRBAD is hampered by the fact that there are no mechanisms or networks for upstreaming information. While there is broad attention for upstreaming issues in international manuals on the HRBAD by the different UN agencies, many of these references continue to imply a top-down bias. The UNFPA manual on the HRBAD (2010: 85) for example argues that the goal of bottom-up efforts is to change local practices that do not resonate with the universal human rights discourse as we currently know it. Local ownership then only refers to local stakeholders becoming the owners of a process installed top-down, not of genuinely bottom-up local processes. This means that local structures are expected to adapt to transnational concepts without the opposite necessarily taking place.

Because of this, few mechanisms for upstreaming local concerns regarding more strategic issues are in place in the *Villages Assainis* program. With regards to the structure of the interventions, mechanisms for upstreaming are less common than with regards to operational issues. The information which is upstreamed regarding

the structure of the interventions moreover mainly relies on consultant's assessment of the situation on the ground, rather than on local voices and understandings¹⁵¹.

Moreover, there is little capacitation of rights-holders or awareness-raising on conceptual issues or long-term strategic needs. For people to provide input on strategic matters, there arguably needs to be a process of awareness-raising first, to provide people with the resources needed to reflect on more structural issues. As several Committee presidents in the villages asserted, the knowledge transfer which took place in the case of the *Villages Assainis* program was unidirectional and did not invite people to think critically about their own situation, even with regards to concrete issues. Moreover, the knowledge transferred was of an explicitly technical nature, and did not cover issues which were not directly related to the execution of the program. Three village presidents (V3, V4, V8) furthermore concurred that trainings were offered by officers who had no interest in village dynamics, and who came with a predetermined idea of the intervention and how it ought to be executed. Several interviewees also indicated that not enough time and resources are foreseen to actually empower people to express their opinion, or even to change their behavior in accordance with the hygienic norms promoted in the program. One *Médecin Chef de Zone* (MCZ4) argued that he has flagged that there is a need for more structural interventions if the aim of the program is to change behavior and empower people, but that there are no resources for this. When asking a Village Committee President (V8) about whether there were opportunities for him to pass the concerns of villagers on to other stakeholders, he replied that the problem occurred first at the level of local rights-holders, who do not provide any input. "They just sit there and stare at us. People do not ask any questions or make any suggestions." This clearly illustrates the importance of capacitation of rights-holders.

Potential norm-entrepreneurs do not receive any guidance on how to translate the message of human rights which is crucial in a HRBAD to the realities of their audience. In many cases the human rights discourse is even absent from their own training¹⁵², and they were not asked by UNICEF to talk about rights to participants.

¹⁵¹ Consultants for example make an assessment of technical problems or develop an evaluation surveys which seek to obtain information on what is happening in the villages. These surveys are used to gain insights on the advancements of the program, but the indicators too are mainly technical and quantitative, and do not ask about the HRBAD. Interviewees in the villages also indicate that consultants mainly asked about concrete, material desiderata, and not usually about process-related concerns or more strategic issues.

¹⁵² While some interviewees argued that they were told during their training that the *Villages Assainis* program is based on the human rights to water, most *Médecins Chef de Zone* argued

Interviewees in the *Bureaux des Zones de Santé* contained that, even if this would have been the case, there would have been no way for UNICEF to check this, as the only type of follow-up consists of situation reports containing technical parameters. This is added to by the fact that most intermediaries who could be key actors in translating the human rights discourse to the local realities of people do not per se have a professional background in working with communities in a bottom-up or empowering manner. Many of them have been schooled in hierarchically organized institutes and also work in a highly hierarchic system. Because of this, *Médecins Chef de Zone* did not consider it their task to inform people about their rights or to probe what this 'Right to Water' means for them. As one of the *Médecins Chef de Zone*(MCZ6) argued,

That's not our task. That's not what we talk about. We need to talk about how diseases can be contained. That's our role in this program. [...] That's the most important thing for us. But telling the people about their rights [laughs] no, that's not our task, is it?

This position was not shared by everyone. As a *Médecin Chef de Zone* in the Bas-Fleuve (MCZ9) expressed,

This [attention to rights] needs to be included in a more formal way in the formation for the program. Even if the entire village does not understand what we are talking about at first sight, there will always be two, three who do understand it, or will over time start to understand it, and these people stay behind in the communities and start to tell others about their understanding as well. It's a long process, but we should do that. [...] We don't pay enough attention to it. We currently adapt our discourse to our audience. We have to say something which they understand, so also if we want to talk about human rights, we have to do this in a language which they understand, even if that often means that we just say the same thing which we always said, technical and logistical matters, which we now call rights. So we really need to revise the materials which we have so that they more explicitly describe the rights dimension in a manner which is *understandable* for these right holders with the frame of reference which they have. And this is something which has to be

that they did not recall there being any mention of human rights or the right to water in their initial training, and indicated that they did also not adopt a human rights discourse themselves when intervening in the local communities. Eventually all but one interviewees indicated that they knew that human rights inspired UNICEF's work, but that they did not see how this would be relevant to local right holders, or what this could mean to them.

done at your level there, where these materials are created. We focus too much on washing hands now to avoid these diseases, but there is no attention to the fact that it is an obligation of government to provide water, that it is your right. [...] This message is already unclear and absent in its [UNICEF's] communication with us, so let alone that it ever reaches the rights-holders. Already of us, they don't expect anything else than the technical message. [...] They just look if people have access to water, but they don't insist that people should also know that it is a right to have water. Also when they [UNICEF] talk to us, they do not mention this dimension very often. They are inconsistent in that sense. That which you put the emphasis on, is where you will find an impact in practice, so if you put an emphasis on the technical dimension, then you will find a change in technical terms. If you stress the spread of knowledge, then you will see an impact in terms of spreading knowledge. But you will not find one *Bureau de la Zone de Santé* which has been explicitly asked to really work with the issue of rights. We have been asked to work on access to water. We have not received one training on the rights dimension.

This plea for more attention to human rights only deals with the potential for contextualizing human rights, i.e. by translating them to the local realities of people, and not with the potential for upstreaming them. We argue though that as such, this contextualization is a crucial component of localization and it should be duly considered by a program seeking to embed its interventions in rights-holders' local realities. This interviewee too however admitted not to raise awareness about this and not to discuss more strategic concerns in his work, because he did not have the skills or resources to do so. Moreover, this *Médecin Chef de Zone* was an exception. Most *Médecins Chef de Zone* were – at best – more passively optimistic about the potential value of a human rights discourse. As one *Médecin Chef de Zone*(MCZ3) argued, rights-holders were open to these discussions and there was room to discuss this issue during interventions, but it should not be a priority. Other *Médecins Chef de Zone* too confirmed that the priority should be to increase people's understanding about hygienic practice, and not in the first place their rights understanding. One *Médecin Chef de Zone* explicitly argued, they were not asked to frame their interventions in a human rights discourse and that he is particularly glad about this as this would only "further challenge the appropriation of the program". There have been no efforts to translate the abstract human rights discourse to the local realities of people. As one of the *Médecin Chef de Zone* (MCZ8) argued,

There are certain things, but well, the realities here, only we know them. We know the villages, the communities, what will work and what won't. They

[UNICEF Matadi] don't know the villages, do they? You take their advice, but then you go to the village, and you will find it to be out of sync.

Potential intermediaries are thus not empowered to take on the role of norm-entrepreneurs because a) the human rights dimension is only tangentially touched upon in their own training, b) UNICEF does not pressure them to explicitly frame their interventions in a human rights discourse, and c) they occupy a difficult position between government and UNICEF. As a consequence of this lagging awareness-raising and deficient mechanisms for sharing information it is questionable whether there is any real scope for upstreaming strategic concerns or input regarding the HRBAD.

CONTEXTUALIZATION

While the collaboration with communities is at the core of a HRBAD (UN 2003) and is prescribed in the methodology of the project (WaSH DRC 2013h), this is not visible in practice regarding issues like the program's approach. This is illustrated in the monitoring and evaluation policy for example, where pre-determined parameters and indicators are used to assess the quality of the project, without there being any consultation with local stakeholders to assess what their main concerns are¹⁵³. These indicators moreover do not usually refer to the core principles of a HRBAD, and thus do not seek how to contextualize this HRBAD.

Even if the HRBAD would be higher on the priority list of UNICEF officers, the fact that there are no formal mechanisms for rights-holders to exchange experiences and ideas on structural matters, adds to the difficulty of contextualizing a HRBAD. Those cases where some form of consultation between different villages was installed, had to deal with the problem that neither UNICEF nor government were involved in these and that this only united people at the local level. There is little scope to contextualize the approach of the *Villages Assainis* program on the basis of these exchanges. One *Médecin Chef de Zone* (MCZ1) argued that in essence there is no negotiation of the content coming from the highest levels.

So in practice the ideal of contextualizing the HRBAD does not usually seem to work satisfactorily, partially due to contextual factors, but also due to an interpretation on the side of UNICEF that contextualization is in the first place something which should

¹⁵³ See WaSH DRC 2013g, 2013k, 2013h, 2013j, which ask questions about the type of water system participants prefer, their issues with public water providers, the quantity and the quality of the water which they get, the problems they encounter when going out to find water, how much they are willing to pay for water, how long they store it, etc.

take place regarding operational issues rather than with regards to goals and strategies. In the next section we argue that this interpretation leaves little room for upstream lesson-learning on strategic or conceptual issues. There we also argue that the overlooking of potential norm-entrepreneurs such as the *Médecins Chef de Zone* (Merry 2007), leaves an important resource for localization untapped. As a consequence, it is questionable how much of the transnational human rights discourse inherent in the HRBAD reaches the local population.

CONCLUSION

The situation described above is indicative of a more general disengagement with the HRBAD, which also makes the localization of this approach highly unlikely. It is not the case that a genuine HRBAD has been implemented in the first phase of the program, and that this has been scaled down because of input coming from the local level through consultation mechanisms. There is even less attention for the localization of the HRBAD than for the issue of localization in general. This is illustrated by the fact that there are no reports in the Action Research which focus on this dimension of the interventions, while there are several reports on the participation dimension for example (e.g. WaSH DRC 2013h, 2013j). Neither the issue of the HRBAD as a whole, nor its localization have been prioritized by officers or implementing partners, who know that they will not be judged on the basis of their achievements with regards to these issues. There is no requirement for implementing partners to frame their interventions in a human rights discourse or to encourage people to think about their access to water in non-technical terms. This makes it questionable whether UNICEF can expect to receive any input regarding its HRBAD which it can upstream and use to make its program more locally relevant. Moreover, there have not been any genuine consultations with local right holders regarding their strategic needs or more conceptual issues, which makes it all the more unlikely that upstreaming or contextualization of the HRBAD can take place.

It is relevant to remark that at the same time that the country office rejected some core elements of a traditional HRBAD, the level of headquarters did so too. At this level as well, we see a decreasing attention for duty-bearers or political aspects of development, and an increasing focus on participation and market-based approaches. It is difficult to assess which came first however, and hard to argue that the choice of headquarters to shift its focus is an instance of localizing the HRBAD, or even of responding to the concerns of the local office at all. It is equally plausible that this paradigm shift towards CATS and SanMark has its origins at the level of headquarters and emerged under the influence of an overall tendency for more neoliberal paradigms, and has been adopted by the country offices in response to

this¹⁵⁴. Interviewees remain vague and present contradictory discourses on this topic which makes it difficult to make definitive claims about this.

It is equally plausible that the country offices were the first ones to find that a HRBAD - as initially conceived of - was difficult to put into practice and therefore started to focus on changing social norms and behavior rather than on political change. This move towards demand-driven approaches which are more hands-on and depoliticized has led to a move away from the HRBAD as a planning tool, rather than to its localization. This reorientation can be seen as a reaction to the situation on the ground, but not as localization as it does not reflect the voices from local right-holders.

The move away from the HRBAD raises questions about its current place in this program. On the one hand, it suggests that the current concept of a HRBAD is too out of touch to be relevant for country offices and local rights-holders, who currently do not see its added value in their daily practice. On the other hand, this illustrates that the fact that localization efforts have not been undertaken from the start now seriously challenges the usefulness of the HRBAD, meaning that country offices are not engaging with it anymore and that this approach has come under serious pressure as it might be late to still convince them of the usefulness of this approach. The decision of headquarters to manifestly propose new and alternative paradigms might be inspired by this consideration that the HRBAD does not have much legitimacy at the level of the country offices and the local level. However, proposing a new approach which is also developed in a top-down manner might encounter the same problems, as it is unclear whether these new paradigms are reflecting the needs on the ground and will be better able to cope with problems arising at the local level. Moreover, these new paradigms potentially have a great impact on the human rights guarantees of rights-holders. A demand-driven and market-based approach which is organized around the needs of people holds little potential for a politicized and strategic thinking about people's long-term needs or for mobilizing around these. A case can therefore be made to genuinely implement and localize the

¹⁵⁴This move towards a more neoliberal policy ran through many of our interviews and program documents. As the website reads, "Sanitation is a basic service with substantial positive impacts both on health and the environment which in turn generates benefits for the economy as a whole. It has been estimated that the economic benefits of providing sanitation may be in the order of just over nine times higher than the costs: that is a \$1 invested garners about \$9.2 of economic benefits. This can translate into significant benefits for the economy" (Tremolet 2010: 6). Within this logic, the usefulness of investing in sanitization is challenged as soon as its economic benefit becomes unclear.

HRBAD, in order to avoid a return to a purely top-down needs-based approach. For this to happen, UNICEF might need to focus more structurally on its partnerships with organizations of civil society, as these organizations might be better placed to foster certain elements of the HRBAD, like contextualization, upstreaming voices from below or working on the political dimension.

6.1.3. CONCLUDING REMARKS

In conclusion, on paper, there are mechanisms for the consultation of local stakeholders in the *Villages Assainis* program, and these are considered a cornerstone of the program. Nevertheless, consultation is limited in practice, and is restricted mainly to technical issues, seldom seeking input with regards to, for example, the HRBAD. The only information which can travel all the way from the local rights-holders to the level of headquarters within the current system, is information on emergencies. This type of information does not lead to conceptual rethinking of structures and norms. With regards to technical innovations and changes there is a limited degree of contextualization in the sense that the country office adapted some elements of the program to the local realities. However, these adaptations are not per se based on people's voices, but rather on their material realities, and people were not usually involved in the process of reconceptualization or could not provide input. With regards to structural or conceptual issues, like the interpretation of the HRBAD, there was no localization at all, as people were not informed or consulted about these issues, and changes were only conceived of and implemented in a top-down manner. The range of issues which people are consulted about is limited to technical matters, which serve the information needs of UNICEF, rather than probing for the strategic needs of actors. There are thus not currently any mechanisms which allow for a genuine revision of the program on the basis of voices from below. In general, adaptations to the program or the approach can seldom be seen as instances of localization as voices from below have not been engaged in a structural manner.

The structure for sharing experience on practical issues - like the innovation labs¹⁵⁵ and the networks for global innovation¹⁵⁶ - at the level of headquarters only include

¹⁵⁵ These innovation labs bring together academia, government, civil society and the private sector, as well as young people. Labs are places to co-create sustainable, open-source solutions for pressing challenges (UNICEF 2013: 15). The DRC does not have one of these labs.

¹⁵⁶ Not all field-offices are part of this, often there is a thematic focus, or country offices get invited by headquarters. There is however no permanent formalized contact between the country office and the headquarters.

country offices and regional offices, but have no mechanisms to ensure that voices from below are heard. This means that innovations which are developed at the level of headquarters do not per se have their roots in needs expressed by local right holders, or even by the country offices¹⁵⁷. Lagging localization therefore can also be ascribed to the absence of mechanisms for sharing conceptual information at the highest levels.

We can conclude that there is a significant gap between theory and practice. On paper, villagers decide over each step of the program, implementers are consulted during the Action Research, and UNICEF officials undertake regular field missions to increase their local awareness. However, this logic of a truly bottom-up contextualized program, is not confirmed during interviews or direct observation. This raises questions about the local embeddedness of the program and the approach, as well as creating problems of ownership and appropriation. Even in those cases where formal consultation mechanisms do exist, participants did not usually feel as if their advice was taken into account and felt they had no say on important issues like the logic of intervention. Thus the downscaled version of the HRBAD was developed by the country office before going into the field, and does not only overlook people's strategic rights concerns, but also their existing realities.

6.2. THE POTENTIAL FOR LOCALIZING HUMAN RIGHTS

The previous two sections discussed the potential for localization of the *Villages Assainis* program in general and of the HRBAD within this program in particular, but did not as such touch upon the localization of human rights, the theoretical perspective which inspires this research. This is a difficult issue to research in the context of this report, since a HRBAD was never genuinely implemented in the *Villages Assainis* program, and it is thus unlikely that we will witness a more general localization of human rights norms in this case. It is nevertheless relevant to engage in a reflection on the localization of human rights on the basis of the findings from our fieldwork regarding this issue. The potential to localize human rights depends on the existence of avenues and mechanisms which can facilitate a two-way interaction between local rights-holders and transnational norm-setters. During our analysis of

¹⁵⁷ An exception to this is the U-Report system. This allows people to send an SMS about an emergency to a database, which allows headquarters to quickly get an idea of the reality on the ground. However, the information which can be contained in a 160-character SMS is unlikely to be of a conceptual or strategic nature which encourages program revisions.

the implementation of a HRBAD, we also probed for the existence of mechanisms for upstreaming local concerns with regards to the HRBAD. On the basis thereof, we reflect on the potential of local concerns regarding human rights issues reaching the transnational level, by using the institutional structures in place. While UNICEF is not a formal human rights norm-setter at the international level, and while rights-holders might have other means at their disposal to voice their concerns, we consider the provision of upstreaming mechanisms by an important HRBAD-actor like UNICEF as indicative of the interest transnational actors have in listening to voices from below.

To do so, we first briefly explore the local human rights understanding (6.2.1), without making any claims to comprehensiveness. We use this to point out two problems with regards to the localization of human rights which are related to the way in which UNICEF deals with this local understanding. Then we reflect on the organizational and structural factors challenging the localization of human rights (6.2.2). In section 6.2.3 and 6.2.4 we explore some difficulties of localization of human rights, in particular with regards to UNICEF's self-declared position as a technical partner, and with regards to the context of the DRC. We conclude with a discussion on the localization of human rights.

6.2.1. INTEREST FOR THE LOCAL RIGHTS UNDERSTANDING

While our fieldwork focused on the HRBAD and its implementation, the issue of 'the right to water' featured in our discussions with local rights-holders at several times. We discuss the local understanding of the right to water here on the basis of the discussions which we had on this topic with rights-holders within time and resource constraints, acknowledging that this does not constitute a comprehensive analysis (see Sundi, forthcoming).

One of the most remarkable elements of the group discussions with rights-holders was that the members of all but one focus groups answered affirmatively to the question whether they knew that water was a right. Most groups equated 'the right to water' with 'access to water' though¹⁵⁸. When asking these groups what the right to water meant to them, several replied by citing the slogan of the National Water Authority, "L'eau c'est la vie", or by referring to the importance of water to survive. Most groups did not spontaneously mention the idea that the right to water also entailed a dimension of government responsibility, or referred to the possibility to claim this right.

¹⁵⁸ E.g. "We understand that we have a right to water, that's why we helped to dig the well, because we need the water" (V8).

Interestingly, villagers from three focus groups argued that, because water is important for their survival, ‘they have to give it to us’, without specifying precisely who they referred to. This remark can either be inspired by the aforementioned *attendisme*, or by the idea that there is indeed a duty-bearer who is responsible for guaranteeing their access to water. The fact that villagers might have a notion of duty-bearers is interesting, because during its interventions the *Bureau de la Zone de Santé* did not mention the idea that someone has an obligation to provide water to the villages. This suggests that the idea that ‘someone has to provide water to them’ is not inspired by the program itself and that it existed before the arrival of the program, either because it is inherent to the local understanding of duty-bearers or because of awareness-raising in the framework of earlier projects. The *Villages Assainis* program did not really engage with this idea that someone should guarantee the right to water, even if this shows overlaps with the duty-bearer discourse firstly because it only mentions human rights tangentially, and secondly, because it systematically omits any reference to duty-bearers when it does mention the right to water. In a forthcoming study, we will consider whether remarks of villagers can indeed be interpreted as entailing an implicit reference to a duty-bearer. If this is indeed the case, the notion of duty-bearer which exists in these villages is much broader than the classic legal interpretation of the state as a duty-bearer. Interviewees in the villages would also refer to the oil company Perenco¹⁵⁹, UNICEF or the implementing NGOs as the ones which need to ensure rights-holders access to water. This shows an interesting overlap with current evolutions within legal studies that also international organizations and transnational companies can have human rights obligations.

The most interesting point for this report though is that rights-holders indicate that they were never asked about their rights understanding within the *Villages Assainis* program. Interviewees at UNICEF’s country office confirm that this is the case. This means that the local office is not only lacking information about whether and what the local understanding of the right to water is, but also about how this interpretation stands in relation to the interpretation proposed by headquarters. Obtaining a clear understanding of the local meaning of the human right under consideration should arguable be the first step of any kind of localization effort, or should at least happen at the time of a program evaluation, so that it can inspire

¹⁵⁹ The company is very active in this community and provides water points, latrines and other sanitation facilities. They have a big installation just outside of the community which is heavily polluting the area. There is no collaboration between Perenco and the *Villages Assainis* program. Both are active in the village in parallel programs.

further planning under a HRBAD. With regards to the local human rights understanding there are thus two important problems, namely that UNICEF is neither probing for the local human rights norms and interpretations, nor engaging in the translation of abstract human rights discourse to the local realities. This suggests that UNICEF is semantically inflating the human rights discourse by calling its approach a HRBAD, thereby commodifying the human rights discourse to the extent of rendering it virtually meaningless.

6.2.2. ORGANIZATIONAL FACTORS CHALLENGING THE LOCALIZATION OF HUMAN RIGHTS

Since the *Villages Assainis* program does not probe for the local understanding of the right to water and does not undertake any efforts to translate abstract concepts to people's daily realities, it is unlikely that any localization can take place. Local rights-holders can, in these circumstances not provide any input which could serve the goal of making transnational human rights norms more locally relevant. In this section we explore which other elements would be crucial for localization to take place, and whether or not these are in place in the *Villages Assainis* program.

COMMITMENT

In the previous section, we established that the first and foremost impediment to the localization of human rights is the lack of consultation, and a lack of interest in listening to voices from below more generally. The fact that some Action Research reports (e.g. WaSH DRC 2013p, 2013h, 2013j) go beyond an evaluation of the technical dimensions of the program, does not mean that people were also actively or structurally consulted about their strategic needs or invited to think about their needs in terms of human rights which they can claim. Regarding the issue of human rights, we can still speak of a degree of ventriloquism, in the sense that there are no systematic efforts to learn about people's interpretation of their right to water or about the type of approach they would prefer¹⁶⁰. This hints at the importance of a genuine commitment to human rights and to their localization. That the commitment to human rights is rhetorical rather than actual is also illustrated by the fact that human rights concerns or localization concerns do not feature in the monitoring and evaluation of the program, and by the fact that there is no awareness-raising on human rights or strategic concerns. This is not considered a priority since, as one of the senior officers in the UNICEF DRC (CO8) office explained,

¹⁶⁰ The only structural and recurring survey is the MICS study which enquires about people's actual access to water, and the results of which are presented in the Atlas (MinSan and MinEdu 2009, 2010, 2011, 2012) There is nothing on the right to water or the ways for arriving at this in this study though.

The guidelines regarding human rights are obviously not developed here, but everything which is related to the project, is planned here in Kinshasa.

This is illustrative of an assumption which ran through the discourse of many interviewees, that human rights norms are by definition set elsewhere, and that this was a process which they had no voice in. This perception of human rights norms as a framework which is developed top-down, explains why the country office puts little effort into localizing human rights, as they reckon that this will not have an impact anyway. This is potentially problematic given the policy shift at the transnational level. As a policy officer at headquarters argued (HQ1) “In 2006 we just talked about the human rights, but the new program focuses more on equity”. This interviewee also mentioned the SanMark and Social Marketing as new inspirations for the WaSH division. When asked if he did not perceive an incompatibility between the HRBAD (with its focus on political responsibility) and SanMark (with its exclusive focus on individual responsibility), the interviewee replied,

The basic principles fit well. Our foci regarding the human rights-based approach are affordability and accessibility, you know, having a good price, so we try to implement this through the SanMark approach.

That the core of the HRBAD is considered to be affordability and accessibility, rather than human rights concerns as such is remarkable, especially since accessibility is interpreted in a manner which is opposed to the notion of accessibility underlying a HRBAD, i.e. as market access. Also the annual report of the Innovation Unit does not mention human rights concerns as a key principle for innovations¹⁶¹. There is thus no strong commitment to human rights or their localization, neither at the level of headquarters, nor at that of the country office.

STRUCTURES ALLOWING ACTORS ACROSS THE SPECTRUM TO INTERACT ON CONCEPTUAL ISSUES

In addition to probing for local rights understandings, translating abstract concepts, listening to local voices and a commitment to a HRBAD, and a commitment to human rights, a more genuine attention for networks could facilitate the localization of human rights. Structures for sharing ideas and understandings are not currently strongly prioritized.

¹⁶¹ The principles which are mentioned are 1) User-Centered, Equity Focused, 2) Built on Experience, 3) Open and Inclusive, 4) Sustainable, 5) Scalable (UNICEF 2013b).

WITHIN UNICEF

One of the most important features of UNICEF's organization is its decentralized structure. The idea is to stimulate local ownership and accountability by giving as much freedom as possible to the country offices, which do not have to seek the approval of headquarters before implementing changes. While this decentralization has been complemented by some accountability measures (like country offices reporting to headquarters on quantifiable targets¹⁶²), the principle of accountability has not been extended to accountability *vis-à-vis* local rights-holders in the sense that there are no structures for local actors to easily get in touch with the regional office of UNICEF or with headquarters. Such structures would allow for an easier circulation of information on programmatic concerns or strategic issues. There are some structures for bringing actors at different levels together, such as the bi-annual meetings of all WaSH directors in a region, but these do not include local rights-holders or their representatives. Moreover, several UNICEF officers at the national level did not know these meetings or where to consult the content which these meetings generated. The function of these meetings for exchanging experiences seems to be mainly documentary, and apparently has little impact on the actual scope for innovations on the ground. It can be argued that, while the decentralized structure of UNICEF envisions innovation¹⁶³, it is hard to create a multiplier effect because of a lack of cross-sectional networks and structures. Which would enable exchange and mutual learning?

ON THE GROUND

Also at the horizontal level structures are missing to exchange experiences. In 'Sanitation for all' (UNICEF 2000) it is argued that programs should involve all sectors of national and local government as well as civil society. This idea – which is consistent with the localization principle of a networked approach – also features in several annual reports and operational documents as something which UNICEF should pursue (see, for example, UNICEF 2000: 12, 2009: 40-41, DRC government 2013: 14). This stress on reinforcing the network of NGOs, organizations of civil society and private partners involved in the implementation of the program, means

¹⁶² As several officers of UNICEF headquarters and DRC indicated, the main way of passing on information is through the annual reports, which mainly discuss the existing targets, and technical and quantifiable measures etc. In these reports, there is no space for discussion on conceptual or strategic issues. This is not per se an avenue for bi-directional communication.

¹⁶³ As a provincial UNICEF WaSH officer argued, “[I] only get the broad outlines of the program, and I have total liberty to apply it how I see fit as long as it stays within the spirit of the program [...] There is a lot of freedom for innovation. I can innovate how I want.”

that we can expect to find structures to facilitate this kind of collaboration at, and below, the national level. However, in practice, networks are few. They sometimes exist between the *Bureau de la Zone de Santé* of one province and the provincial B9, but UNICEF is not involved in these local networks and did not facilitate them. These networks moreover, did not bring actors across different levels together meaning that even if there is knowledge sharing at the local level, this difficultly reaches higher levels¹⁶⁴. This challenges the extent to which these networks can facilitate localization. As several *Médecins Chef de Zone* acknowledged however, the absence of networks is not only the responsibility of UNICEF, but also of the DRC government, which is also structured in a hierarchical manner.

COMMUNITY INITIATIVES

A sixth and last element which needs to be in place to allow for the localization of human rights is a broad attention for and engagement with grassroots initiatives. Our fieldwork showed that, despite its decentralized structure, UNICEF cannot cope well with community initiatives and has difficulties integrating these into its approach. Since overall targets and approaches are still mainly decided upon top-down, there is little place for the integration of community initiatives or input from below into its own program, and to the extent these community initiatives are considered and encouraged at all, it is only with regards to practical issues, not to engage in a broader societal debate about human rights norms.

6.2.3. LOCALIZATION BY UNICEF AS A TECHNICAL PARTNER?

The foremost reason for a lagging localization of human rights in the context of this program is related to UNICEF's weak commitment to, and implementation of the HRBAD. This engenders the problems listed in sections 6.1.1 and 6.2.2. However, all these factors are also related to another element in the policy of UNICEF which explains low achievements both regarding the HRBAD and regarding localization, i.e. its self-identification as a mere technical partner of government.

UNICEF DRC defines its own position in the program as that of a technical partner of the government which conceived of the *Villages Assainis* program. For this reason, UNICEF adopts a discourse which excludes a focus on duty-bearers and does not consult local rights-holders on their human rights concerns. As a matter of consequence, the program currently adopts a 'light' interpretation of the right to

¹⁶⁴ In order to increase accountability, create more bargaining power and facilitate the exchange of experiences, the second phase set up 'user groups' between and within villages. These however do not include UNICEF officers or government officials (see supra).

water and of the HRBAD which is not empowering for rights-holders. The decision not to adopt such a politicized approach is explained by UNICEF as a consequence of their position as a technical partner to government . As a senior officer of WaSH DRC (CO1) argued,

We had some discussion on that, but we can't go too far, because we are also only here for technical assistance. But there are also things that civil society can do. Civil society is another entry point for that issue. We are working with a lot of NGOs that are technical, so they maybe can't really pick up on that 'challenge' function [...] we essentially support the government as a duty-bearer.

This reasoning is used to adopt a hands-off approach with regards to human rights, and can also be seen as one of the reasons why no localization is taking place. Some reflections regarding this self-identification are in place however. Firstly, the extent to which this is really a program managed by government and over which the government feels ownership is questionable. As an interviewee from the Ministry of Health (NG2) indicated, government officials themselves internally refer to the *Villages Assainis* program as 'UNICEF's program'. This means that UNICEF's self-identification as a technical partner is largely denying the reality on the ground, that it is seen as the leader in this case, and not just as a technical partner. It thus has a degree of ascendancy to engage in norm-setting and framing. Referring to the program as a government program in that context seems inaccurate and inadequate, and could be interpreted as a justificatory discourse by UNICEF for denying its own responsibility in terms of protecting the human right to water and for not implementing a genuine HRBAD in practice.

Whether or not UNICEF has such a responsibility under international law is open for debate, but its responsibilities in terms of human rights stemming from its own policy documents are undebatable. With the adoption of the Executive Directive 98-04 in 1998 UNICEF committed itself to further human rights in all its interventions. Even if UNICEF is not a direct implementer in this case, it has the responsibility – as one of the biggest funders and developers of the program – to also monitor government with regards to human rights, and to insist on the implementation of accountability mechanisms and the importance of human rights-based planning. Under this Executive Directive, UNICEF has the task to ask the operationalization of a genuine HRBAD by government, even if it does not consider it its task to engage more explicitly with human rights itself. Moreover, the Directive at several points refers to the 'spirit of the treaties' and suggests that there is a degree of flexibility

when it comes to deviating from top-down, universally agreed-upon interpretations of human rights norms (UNICEF 1998), thus facilitating an openness to local interpretations and a process of localization.

More elaborate attention for human rights in general and for the localization thereof in particular can be fostered by establishing more structural relations with actors of civil society or with partners who have a different relationship with government, like the SNV¹⁶⁵. There is little attention for these relationships at present however. This is striking given the markedly positive results that the SNV obtained through its networked approach which allowed it to build on the capacities of more actors and to be more critical of government.¹⁶⁶

Also the Paris Declaration on aid effectiveness encourages this kinds of networks and partnerships, not only to facilitate program-related learning, but also because partnerships with community-based organizations can facilitate the promotion of rights-based approaches (see, for example, UNICEF 2012:44). Structural partnerships with community-based organizations and organizations of civil society allow for more accountability, and a better local understanding. These organizations can moreover stress the political dimension of a rights-based approach more easily than UNICEF can as a technical partner. At present however, UNICEF does not have a structural approach towards these actors which could facilitate a more comprehensive HRBAD. Because of the narrow focus on quantifiable program indicators, most actors in the network of UNICEF are NGOs which, as implementing partners, help achieve the technical and material goals of the program. Structural partnerships with organizations of civil society are virtually absent from the *Villages Assainis* program, even if these are formally envisioned¹⁶⁷. While these organizations of civil society are not the only possible avenue to engage with the human rights discourse in a more interactive manner – media or local politicians for example can in theory also play a

¹⁶⁵ The fact that the SNV does not perceive it problematic to play a challenger role, is not related to its position *vis-à-vis* the DRC government, which is similar to that of UNICEF, but to its choice not to self-define as a mere technical partner.

¹⁶⁶ Also the SNV's internal structure is highly networked, as an SNV interviewee described, "The headquarter gives the orientation for these initiatives, and then the officer responsible for the Wash program in a certain country discusses with his team if they want to make a contribution, and that works well. This way they put on it if they feel they can share something. So we really try to work with networks to bring everyone together and we try to avoid this top down structure."

¹⁶⁷ For the partnership structure of the *Villages Assainis* program, see Appendix 5.

role – they are a useful avenue to tap into local dynamics, which is currently largely being ignored.

There is thus a grand incongruence between what UNICEF does on the ground and what it proposes in its strategic documents, because of the alleged difficult position as ‘technical partner’. In this section we presented several elements for reconsidering this justification, and argued adhering to its own policy and establishing broader networks with civil society may be one of the avenues for allowing UNICEF to engage more systematically in localization efforts. We posit that this strategy can be more useful than refraining from consulting local actors on conceptual or strategic issues altogether like their rights understanding altogether, since it can lead to more locally relevant programs which address people’s situation in a more comprehensive manner than the current – de facto – needs-based approach can do.

6.2.4. LOCALIZATION IN THE DRC

Next to the factors related to local rights understandings, to structures and to UNICEF’s self-identification, there are also several contextual factors which interfere with the potential for localizing human rights in the DRC. As an officer of WaSH DRC argued, the sheer vastness of the country and the poor communication and transport infrastructure, make it particularly hard to listen to the voices from below and to engage with their realities, even when there if there would be a willingness. There are however also more substantial considerations to make when considering the context for localization in the DRC. It should be carefully considered whether, in the present context, a broader discourse about the responsibilities of duty-bearers would constitute an added value for rights-holders. As one member of the Village Committee (V2) explained,

We know it is a right, but we are not in a position to claim it. We can take note of the fact that it is a right, but it remains a violated right, and there is nothing that we can do about that, because we do not have the money or connections.

This person was critical of both the *Villages Assainis* interventions and the idea of rights more generally and seemed to have reflected on these issues also before our interview. The interviewee indicated that the practical relevance of knowing that water is a right was utterly limited, especially for villagers who did not care about these issues as much as the interviewee did. Also another critical committee member (V2) argued,

Sorry if we have not said what you wanted to hear, but this is our reality. Here you cannot have your voice heard or you are punished for it. Plus we don't have the means to claim our rights. It is all good for them to talk about rights, because they know that in practice it doesn't mean anything at all here anyway. [...] Look around, we have to walk 7 kilometers to [the nearest village]. There are no roads, there is nothing. We don't even have the money to go to a school or a hospital, let alone to unite, go to a big city and get a lawyer.

While these quotes warrant for unreflectively introducing certain dimensions of the human rights discourse within the framework of this program, they also overlook a more long term potential of this discourse and the idea that this could be an invitation for villagers to think about their strategic needs and not just about their practical needs.

6.2.5. DISCUSSION

In section 6.2 we explored the different impediments to the localization of human rights which we found in this case of the *Villages Assainis*. While localization was not the focus of our fieldwork, input from local rights-holders and interviewees at UNICEF allowed us to probe for the potential for localizing human rights in this case, and to reflect on the factors which can play a role in this process more generally. Figure 17 gives an overview of the different factors that hampered the localization of human rights by UNICEF in our case study, and can thus also be used to develop a policy which is more concerned with this issue in the case of *Villages Assainis*.

	UNICEF	SNV pilot case
Local rights understanding	No effort to translate abstract concepts to local realities No effort to probe for local rights understandings	Effort to address strategic issues on the basis of practical workshops Engagement with local understandings of strategic concerns
Organization	Absence of mechanisms to ensure commitment to human rights and to the goal of making the interventions more locally relevant Absence of mechanisms for	Interventions are based on grassroots consultations. Rights-holders factually decide on the nature of the interventions Installation of several consultation rounds involving

	<p>sharing information on non-technical issues across different levels</p> <p>Absence of mechanisms to integrate community initiatives</p>	<p>rights-holders as well as duty-bearers</p> <p>Not applicable - This was a pilot study, no follow-up strategy yet</p>
Relations and networks	<p>Self-identification as a technical partner of government</p> <p>Decentralized structure of UNICEF currently challenges the implementation of its own policies</p> <p>No networks with organizations of civil society to ensure local embedding</p>	<p>Self-identification as a technical partner in the project</p> <p>Decentralized structure but close working relations between the different offices of the SNV</p> <p>Strategy to actively reach out to other partners and involve them for more accountability</p>
Context	<p>Poor infrastructure hampers access to villages and maintenance of installations</p> <p>Unresponsiveness of the state as a duty-bearer</p>	<p>Poor infrastructure hampers access to villages and maintenance of installations</p> <p>Unresponsiveness of the state as a duty-bearer</p>

Figure 17 Overview of factors hampering the localization of human rights by UNICEF (own elaboration)

Our assessment of how likely localization of human rights is in the current *Villages Assainis* case is dim. Several conditions which would need to be fulfilled to speak of the localization of human rights are not in place in the *Villages Assainis* program. The most important factor however seems to be the low priority UNICEF gives to this issue. UNICEF is not a formal human rights norm-setter like the Human Rights Council. It conceptualizes its role in the field as a technical one providing assistance to government for implementing the project. In the *Villages Assainis* program, UNICEF has chosen not to conceptualize its role beyond that of a technical partner. By taking on this largely technocratic role, it implicitly ignores its own responsibilities regarding human rights. Because of this, it does not seek to install the structures or policies necessary to ensure that human rights are furthered in a locally relevant manner, neither in its own interventions nor in those of government. The pilot study of the SNV shows that acting as a technical partner does not have to stand in the way of more attention to human rights and their local relevance. The SNV too

intervened in the capacity of a technical partner, and in the same context as UNICEF, but showed that, through more attention to networks and through a genuine consultation of rights-holders regarding their strategic and structural needs, interventions are possible which use practical concerns to develop transferable skills, raise awareness of rights and further accountability.

While the disengagement with the human right discourse and the restrictive interpretation of the right to water on the side of UNICEF reflects a degree of skepticism about the rights discourse on the side of villagers, it is out of touch with the discourse of local actors when it comes to the issue of responsibility. Whereas the *Villages Assainis* discourse mainly stresses the responsibilities of rights-holders, local rights-holders themselves refer to external actors as the ones responsible for guaranteeing their access to water. This creates the impression that the discourse of UNICEF's country office is not in line with that of the population, and that it moreover overlays existing ideas about the right to water with a depoliticized needs-based interpretation and a discourse of individual responsibility. Because of this, the human rights discourse has not created the basis for linking people's practical and strategic needs. There has not been any localization of human rights or of the HRBAD in this case, which challenges the local relevance and legitimacy of the interventions, as well as the opportunities for bi-directional communication on these issues.

7. CONCLUSION

In this report we studied the evolution of the HRBAD in the UN system in general and in UNICEF in particular, and assessed the way in which this approach is implemented in the *Villages Assainis* program in the Bas Congo province of the DRC. The *Villages Assainis* program is officially a program of the Congolese government, initiated under the auspices of USAID, and currently heavily funded, and de facto managed, by UNICEF. UNICEF's formal adherence to a HRBAD triggers questions about the operationalization and implementation of this approach.

In particular this report addressed three questions.

- a) What is the importance and the evolution of the HRBAD as a guiding paradigm for the UN in general, and for UNICEF in particular?
- b) How is the HRBAD implemented on the ground in the *Villages Assainis* project?
- c) Do human rights-based interventions by UNICEF's WaSH division create the conditions for localization of the HRBAD in particular and of human rights more generally?

In the first question we focused on strategy and assessed how the UN in general and UNICEF in particular use human rights standards and principles to develop their own policy and paradigms, and how these paradigms have changed over time. The report paid specific attention to the tools which headquarters develops to operationalize certain principles. The second question zoomed in on the implementation (or non-implementation) of the HRBAD in the *Villages Assainis* program, and assessed how UNICEF, which has been one of the frontrunners of a HRBAD, operationalizes this policy on the ground in the Bas-Congo. The third question probed whether the paradigm of HRBAD has facilitated the development of mechanisms for contextualizing programs and for upstreaming – practical and structural - local concerns, and whether these mechanisms can also be used for upstreaming local human rights concerns. This question is timely in the sense that upstreaming dynamics has been understudied to date, meaning that our report can shed new light on the process of – reverse – standard-setting and program implementation.

In this conclusion to the report we first formulate an answer to the two core research questions and then touch upon several issues regarding the deficient implementation of HRBAD policies, whereby we seek to identify causes as well as

possible remedies for this situation. Lastly we discuss the relevance of this study for the LHR research project.

7.1. EVOLUTION OF THE HRBAD WITHIN THE UN/UNICEF

The policy study in this report presents four main findings regarding the evolution and importance of the HRBAD within the UN/UNICEF, and regarding the coherence between the different policy levels.

- 1) *UNICEF was one of the first UN programs to commit to the HRBAD. Headquarters formally continues to support the HRBAD. References to the HRBAD and a human rights discourse more generally feature regularly in strategic documents issued by UNICEF's headquarters, and, to a lesser extent, in those issued by the WaSH division. As far as formal rhetoric is concerned, human rights are a continuing concern of UNICEF.*

We found that, for all levels and divisions of UNICEF which were analyzed in this report, there is still a formal commitment to the HRBAD, but that this commitment is mainly rhetorical and appears in strategic and conceptual documents rather than in operational documents. The commitment is moreover stronger at the level of headquarters than at the level of the country office, but even at the level of headquarters, the attention for the HRBAD is waning.

Specifically for UNICEF's WaSH division – the division in charge of the *Villages Assainis* project – we found that human rights language has always been present in its discourse, albeit mostly in an implicit and inconsistent manner. When references to human rights are explicitly made, human rights are presented as fundamental principles for interventions. Nevertheless references to human rights are few, and few documents go beyond this formal declaration on the importance of human rights. None explicitly frame human rights as an organizing principle, but mainly use the discourse as a more abstract guiding framework. Especially in the early 1990s and the late 2000s, references to human rights are infrequent and rather vague. Also references to the HRBAD itself are sporadic. While the strategic plan for 2006-2015 continues to present the HRBAD as the guiding principle for all interventions in the domain of WaSH, rhetorical attention for this approach in strategic and operational documents is limited. This triggers the question whether such a discourse facilitates the actual organization of interventions around human rights principles.

- 2) *Since UNICEF's commitment to a HRBAD has been mainly rhetorical, few structural efforts to operationalize the approach have been undertaken. Guidelines which have been published by headquarters so far do not offer much*

concrete advice to country offices. This makes it difficult for headquarters to demand from the country offices the implementation of its own Executive Directive 98-04 and for country offices to do this.

Our study showed that attention for the HRBAD has been mainly rhetorical and did not lead to the development of many HRBAD-inspired operational tools, neither within UNICEF nor within other UN agencies. While the operationalization of the approach has received more attention at the level of headquarters than at the country level, also at the level of headquarters attention for operationalization and implementation has been low throughout and has been decreasing since the mid-2000s. Before this, several UN programs at the level of headquarters (including UNICEF) developed some tools and working guidelines on the HRBAD, but no such materials have been developed recently. Moreover, the tools which were developed before the mid-2000s, while being called 'working guidelines', mostly remained rather abstract and few went beyond a reformulation of the UN Statement of Common Understanding (UN 2003). Concrete policy and planning advice was missing from most of these documents. Hence, at the level of headquarters, attention to the operationalization of a HRBAD seems to be low overall, and to be diminishing since 2007. Headquarters is not offering the country offices concrete assistance for implementing the approach which it formally adopted with the Executive Directive 98-04, and is not taking responsibility for doing so because of the logic of decentralization.

This decentralization leads to contradictory situations in which headquarters formally adopts a directive but does not impose this upon its country offices and does not formally require that they bring this into practice. The decentralized structure was installed to allow for more responsive and contextualized planning. However, it hampers the adoption of guiding paradigms in a consistent manner and makes it difficult for headquarters to impose anything beyond the strict parameters inspired by results-based management.

There is thus a substantial difference between the official rhetoric and status of the Executive Directive 98-04 and the impact this Directive has on the internal functioning of UNICEF and on its interventions. The adoption of HRBAD principles continues to lag behind, due to practical concerns, UNICEF's decentralized structure, an apparent low commitment to the principles, and the emergence of competing paradigms.

- 3) *Also within UNICEF, alternative paradigms - like the SanMark and CATS, i.e. market-based and community-based approaches - are competing with the*

HRBAD. The broad attention to the operationalization of these approaches suggests a stronger commitment to them than to the HRBAD.

The three most dominant competing paradigms to the HRBAD within UNICEF's WaSH division are the framework of equity, that of community-based approaches to total sanitation (CATS) and that of sanitation marketing (SanMark). Also in other domains equity-, participation-, and market-based approaches are gaining ground. Approaches revolving around equity or participation are not per se in contradiction with the HRBAD, but rather zoom in on one element of it, and omit dimensions like a focus on duty-bearers, or on the politicization of development. Despite the compatibility of CATS and equity-approaches with the HRBAD, there have so far been no efforts to integrate these into a comprehensive framework, neither at the level of headquarters, nor at the level of the country office. On the contrary, several hand-on tools have been published on the CATS and equity-approaches which entirely omit any reference to the HRBAD.

The same holds true for the SanMark approach. There has been a ubiquity of operational documents, issued by the level of headquarters, which do not refer to the HRBAD or to human rights more generally, and which address the issue of access to water as a mere demand-driven market-based issue. Like the other two approaches it entirely depoliticizes development. However, whereas participatory and equity approaches still adhere to several dimensions of the HRBAD (like equal access, appropriation, and empowerment of rights-holders), this is much less present in market-based approaches. We argue that, due to the stress on individual responsibility, the shift of language from rights-holders to consumers and the absence of duty-bearers from this approach, the SanMark and HRBAD are fundamentally incompatible. While UNICEF itself refers to market-based approaches as user-centered, we reject this idea and argue that this approach is market-centered rather than being concerned with the rights of 'users'. The growing importance of the SanMark and its basic incompatibility with the HRBAD, may explain why the HRBAD is losing importance for UNICEF today in operational terms.

4) *The fact that the operational vacuum which exists regarding the HRBAD is filled by CATS and SanMark approaches tends to hollow out the meaning of human rights and the core of the HRBAD, as these approaches reject a politicized approach and pay little attention to structural problems.*

Because the alternative paradigms which are emerging today are easier to operationalize and offer more visible results in the short-term, UNICEF has chosen to structure its interventions around these principles, while still adhering to the human

rights discourse on paper. A genuine commitment to a HRBAD would however require an operational strategy to deal with structural and strategic problems, which is not happening under CATS or SanMark interventions. Hence, the fact that the HRBAD continues to be an important guiding principle in conceptual terms, while the CATS and SanMark guide the practical interventions leads to a number of contradictions and inconsistencies. This disconnection means that the HRBAD framework is only an abstract discourse in the minds of UNICEF WaSH officers on the ground, who, in practice, are trained to implement a CATS, or more recently, a SanMark. As one of the interviewees at headquarters argued when describing the SanMark approach, “I think human rights-based work is at the core of our programming. The focus is that the service is affordable and of good quality, that it is accessible, that people can pay for it. Those are the main principles in our service provision regarding water supply and sanitation. This is key for the program, meaning that there is a strong focus on equity.” This reply shows how the logic of a HRBAD and a SanMark approach are used as if they were interchangeable. Even if there are certain overlaps between both approaches – like a focus on accessibility – differences are significant, and conflating these approaches by focusing on individual responsibility and market principles instead of on duty-bearers and accountability, while still calling this a HRBAD, risks hollowing out the principles of a HRBAD, and of human rights more generally.

7.2. IMPLEMENTATION OF THE HRBAD IN THE VILLAGES ASSAINIS PROGRAM

The *Villages Assainis* program took the ineffectiveness of earlier attempts to sanitize villages as its starting point and posited that earlier low success rates were due to insufficient community support. The new *Villages Assainis* program is therefore explicitly community-based and demand-driven. It also formally adopts a HRBAD, as interviews confirmed. Community initiative is not only valued as a possible remedy to low degrees of ownership in the past, but also as part of the HRBAD’s focus on bottom-up initiatives. The HRBAD’s stress on duty-bearers and accountability is less visible in the program though. In this conclusion, we rely on the twelve indicators of a HRBAD as set out in chapter five to discuss the implementation of the HRBAD, and then probe for the reasons behind low achievements with regards to HRBAD principles. We conclude that the HRBAD is indeed formally subscribed to as a guiding principle, but that this is mostly a rhetorical engagement, which does not inspire the reality on the ground.

- 5) *When considering the Villages Assainis program in the DRC we witness how a commitment to the HRBAD has mainly taken place at a discursive level, and how*

HRBAD principles are largely absent from the operational documents, and even more from interventions.

Overall, the HRBAD and human rights language feature less prominently in strategic documents at the level of this country office than at the transnational level. Yet, while the HRBAD could arguably still be seen as a –weak – guiding principle in strategic documents, it is much less present in operational documents, and in many cases non-existent in the concrete interventions. Also from the Action Research of 2013, the human rights discourse as well as the HRBAD are nearly absent. Two reports, tangentially, make one reference to the right to water, none mention the HRBAD as such. In sum, despite the acknowledgement of the potential added value of a HRBAD in some strategic documents and by some interviewees at the country level, HRBAD principles or a human rights discourse do not seem to inspire operational documents or interventions in many cases. The fact that UNICEF’s country office itself is not strongly pushing for a HRBAD in its operational documents, also influences the attention which partners, and in particular the DRC government, pay to this approach. UNICEF’s DRC WaSH division does not insist on the implementation of a HRBAD by its partners, nor does it structurally engage with the approach in its own operations. As a consequence, the HRBAD is not implemented in a systematic manner in this program.

Our fieldwork revealed that some dimensions of the HRBAD are being implemented in the *Villages Assainis* program, while for others there is only discursive attention, and yet others are entirely absent (see Figure 15). On paper, the program pays attention to the language of human rights, to using human rights as guiding principles in its interventions, to capacitating the state, accountability, local ownership and partnerships, bottom-up approaches, and, most notably so, to participation, local ownership and non-discrimination. However, in terms of operationalization only the latter three are structurally elaborated upon, and in terms of actual implementation of mechanisms, it is only the dimension of participation which is most visible. Moreover, of those HRBAD dimensions which feature in the *Villages Assainis* program, it is questionable whether they are conceptualized in line with the UN Statement of Common Understanding on a HRBAD (UN 2003). The implementation of the *Villages Assainis* program, in other words, seems to adhere to a particularly narrow and ‘light’ interpretation of a HRBAD, which makes it questionable whether we can still speak of a HRBAD at all. Some interviewees interchangeably use the notions of HRBAD, a needs-based approach, a demand-driven approach or a community-based approach when

referring to interventions in *Villages Assainis*. This arguably affects the legitimacy of a HRBAD and undermines its core principles.

- 6) *The Villages Assainis project embraces the community-based approach more strongly than the HRBAD with regards to practical interventions, and focuses heavily on the responsibility of rights-holders. While the intervention process is allegedly centered around the participation of these rights-holders in every phase of the program (initiation, planning, execution, follow-up), the general design of the program is developed top-down and is non-negotiable.*

Participatory and community-based approaches are preferred to human rights-based approaches by UNICEF WaSH-officers in the country office, allegedly, because these community and participatory approaches are not dependent on the existence of a functioning legal apparatus and therefore avoid paralysis. The idea is that people can proceed and start sanitizing their villages on the basis of their own resources, rather than being dependent upon an unwilling government. Officers explained that, due to the difficult context in which they work and the logistical and financial constraints which they face, they have to choose priorities in a pragmatic manner, and therefore focus on the fulfillment of people's basic needs, rather than also introducing rights-related concepts which require a degree of politicization.

Hence participation of rights-holders is de facto only required regarding practical matters and rights-holders are not consulted by the country office before the start of the program to learn about their strategic needs or human rights understanding. Such a consultation can be expected though from a program which claims to adhere to a HRBAD, with its focus on bottom-up dynamics and locally owned processes. The fact that this consultation has not taken place – neither at the outset of the program nor during the mid-term evaluation – also means that there is no scope for planning interventions on the basis of local rights-holders own input.

- 7) *Several elements interfere with the potential for implementing a genuine HRBAD, next to contextual factors and lagging commitment, the self-ascribed position of UNICEF as a technical partners of government is an important explanatory factor for why a HRBAD is not being implemented.*

Several contextual factors are cited by UNICEF DRC's country officers as a justification for why all elements of the HRBAD cannot be implemented. Remoteness of rights-holders' communities, the unresponsiveness and fractionalization on the side of government, low levels of alphabetization and formal education amongst rights-holders, limited budgets, time pressure, volatility of staff, the absence of

attention for a HRBAD in the training of staff members, a lack of information and practical tools for implementing this approach, the fact that the HRBAD is not a priority for headquarters and thus not something which the country office has to report on or to develop monitoring and evaluations tools for, and a perceived incompatibility between the HRBAD and the realities of local rights-holders, are all cited as reasons why it is difficult to implement a HRBAD. An equally decisive factor though is UNICEF's self-defined role in this program.

In the *Villages Assainis* case, the UNICEF WaSH office acts only as a technical partner to government. UNICEF designs the program and sets the goals in collaboration with the DRC government, but lays the responsibility for ensuring that interventions are human rights-based entirely with the DRC government by claiming that it cannot impose conditionality or make demands in its current capacity. This logic of non-actorness is based on the idea that it is UNICEF's responsibility to facilitate the DRC government's ownership over the program, and that it should therefore not act in a directive manner. The DRC WaSH division moreover argues that it cannot impose conditionality upon government because this would be considered confrontational, and that it can only seek to capacitate government by offering logistical and financial assistance and incentives. Because of this, the program remains dependent on government's goodwill to actually realize human rights.

Apart from general questions about accountability which this logic of non-actorness raises, this argumentation is particularly problematic when operating in failed states where the government does not have the capacity of acting as a competent program implementer, and expresses no concern with human rights. Moreover the extent to which this is really a program managed by government and over which the government feels ownership is questionable. This means that UNICEF's self-identification as a technical partner is largely denying the reality on the ground, which is that it is seen by government as the leader in this case and not just as a technical partner. Referring to the program as a government program in that context seems inaccurate and inadequate, and could be interpreted as a justificatory discourse by UNICEF for denying its own responsibility in terms of protecting the human right to water and for not insisting on the implementation of a genuine HRBAD in practice. UNICEF has a degree of ascendancy to engage in norm-setting and framing, and we argue that it is always the final responsibility of UNICEF to ensure that interventions in programs which it supports, respect the principles and goals which the organization sets itself, in casu, that UNICEF is responsible for the implementation of the principles of a HRBAD because of its adoption of Executive Directive 98-04.

The strategy of rhetorically shifting responsibility raises questions as to whether international organizations and INGOs can ever credibly adopt a HRBAD when defining their own role as one of mere technical assistance. Self-defining as a technical partner is used to justify the logic of non-actorness. This leads to inconsistencies and challenges the potential for operationalizing a HRBAD on the ground. Formally adhering to a HRBAD while renouncing one's own obligations stemming from this, challenge the overall legitimacy of the approach. UNICEF places the entire burden of implementation upon government agencies which a) do not currently have the capacity to manage this process in a responsive, accountable and transparent manner, and which b) are not pressured by UNICEF to do develop rights-based interventions. This jeopardizes the efficiency and legitimacy of the program, and puts UNICEF in a position where it cannot be held accountable. The logic of facilitating ownership by relying entirely on the DRC government for the program's implementation, has in practice created a situation in which accountability – both that of government and that of UNICEF – is low.

This report argues that – especially when working in failed states – UNICEF should be more involved in the execution of the program and monitor interventions more closely, so as to ensure that interventions abide with human rights principles. Currently, UNICEF limits its own role to designing the program. But it did not build in any rights-related elements in the evaluation program. It takes a markedly compromising attitude *vis-à-vis* government with regards to the implementation of a HRBAD and can therefore not guarantee that the priorities of the programs which it designed are brought into practice, nor can it claim to capacitate government in this manner as UNICEF is still by and large steering the overall program development. The partnership discourse thus seems to apply only to limited domains of the relationship with government, and seems to be used mainly as a justificatory discourse to defend a hands-off approach, which challenges accountability and efficiency. The responsibility for protecting and realizing human rights is placed with a government that shows no interest in this issue, while UNICEF itself takes no action in this regard.

This case study suggests that it might be useful to refrain from calling this program a HRBAD altogether, and to reserve this notion for programs that have a more explicitly human rights-based approach, i.e. to see a human rights concern as the inspiration for this program, but to acknowledge that the program is not, in its methods, furthering human rights as much as it is trying to protect people's basic human needs. Making this analytical distinction allows us to reserve the notion of a HRBAD for those programs that envision long-term structural changes and that work on the strategic needs of people in a more systematic way

8) *The position of UNICEF as an external actor requires that the organization establishes sound partnerships with local actors to ensure the local relevance of its interventions and to increase local ownership.*

The study of UNICEF's implementation of a HRBAD in the case of the *Villages Assainis* program also raises questions about the extent to which the organization can credibly adopt a HRBAD at all, when entering the scene as a foreign actor and when operating within a structure which is largely results-based. Often the need to deliver immediate results leads to a disproportional focus on practical needs, and impedes work on rights-holders' strategic needs. At present, international organizations and donors often do not have the structures in place to consult local rights-holders on their strategic interests or on their human rights concerns. Until sounder mechanisms to this end are developed, we argue that partnerships with civil society and local organizations are needed to ensure that local concerns can be taken into account when designing or revisiting the program. Our study of the strategies of the Dutch Technical Cooperation SNV – which sets up systematic relationship with community-based organizations and local NGO's – suggests that more explicit attention for networks and partnerships could help UNICEF to increase the local relevance of its interventions and, thereby, to live up to the goals that it sets itself under a HRBAD, in particular the goal of facilitating a meaningful participation of rights-holders' in all stages of the process, and the empowerment of rights-holders to claim their rights *vis-à-vis* duty-bearers would benefit from these partnerships.

Currently, consultations with rights-holders are much more ad hoc and do not always provide the type of input which allows for program revisions, because UNICEF is neither investing in developing mechanisms for this itself, not in the establishment of partnerships with actors that could facilitate the upstreaming of local voices. Because of the narrow focus on quantifiable program indicators, most actors in the network of UNICEF are NGOs that, as implementing partners, help achieve the technical and material goals of the program. Structural partnerships with organizations of civil society are virtually absent from the *Villages Assainis* program, even if these are formally envisioned. The failure to engage in such partnerships and to establish broadly supported networks challenges the potential to develop a locally relevant approach, as external actors can arguably never generate sufficient adequate contextual knowledge on their own without entering in a network with community-based organizations. Yet, UNICEF is currently not prioritizing a partnership policy, partially because of the pragmatic choice to focus on people's immediate needs and on the quantifiable targets on which it reports to headquarters.

9) *The adoption of new alternative paradigms for intervention by the country office is based upon the assumption that the HRBAD has failed. This logic is flawed however, since a genuine HRBAD has not been implemented thus far, and can therefore not be said to be inappropriate or irrelevant in the case of the Villages Assainis program.*

The fact that UNICEF's DRC country office has neither explicitly engaged with the guidelines on a HRBAD which were developed by headquarters in the early 2000s, not developed its own operational policy for implementing a HRBAD, makes it hard to sustain the claim that a HRBAD did not work in this context. The perceived ineffectiveness and irrelevance of a HRBAD which several DRC WaSH officers hint at, stands in contradiction to the fact that there have not been any attempts to systematically engage with the operationalization of this approach, neither in the initial phase of the program, nor in the revised approach which has been implemented since mid-2014.

Several interviewees argued that low levels of engagement with a HRBAD can be explained by the fact that this paradigm does not resonate with local reality, and that it does not pay off to implement this paradigm in this case. Since the HRBAD has never actually been tested however, this claim is hard to sustain. Therefore, also the fact that the country office is currently operationalizing the implementation of new approaches like the SanMark approach seems incongruous, firstly because there is no proof that the HRBAD does not work in this context, and, secondly, because these new approaches too have been conceived of top-down, and might not be relevant in the local context.

The claim of some WaSH DRC officers that a HRBAD is not relevant in this case because it was developed elsewhere thus also applies to the SanMark, which was also developed elsewhere. This question about the link between transnational discourses and local realities links back to our question about localization. The assessment of several interviewees of the DRC office that concepts coming from elsewhere cannot be introduced in local planning – which they interestingly only apply to the HRBAD, but not to the SanMark – ignores the possibility of making such concepts locally relevant.

7.3. LOCALIZATION IN THE CONTEXT OF THE VILLAGES ASSAINIS PROGRAM

The above discussion feeds back into the third research question of this report, about the potential for localization in the context of this program. With localization we refer to the bi-directional dynamics of contextualization and upstreaming

between transnational discourses and local interests. We assess the potential for localization with regards to *Villages Assainis* interventions in general, with regards to the HRBAD and with regards to human rights.

10) There are some upstreaming mechanisms, both below the national level and between the national and transnational level, but these mechanisms focus on technical information. Moreover, the input which country offices provide to headquarters is not per se based on a broad grassroots consultation, but rather on their own assessment of the situation.

There is a limited degree of contextualization with regards to practical issues, but not with regards to more structural aspects of the program. The information coming from these consultations is potentially useful for operational purposes¹⁶⁸ because it provides up-to-date information about the realities on the ground, but it does not allow for a genuine rethinking of certain assumptions. Upstreamed information fulfills UNICEF's information need rather than reflecting a concern with local issues as such.

Moreover, due to a highly tiered structure – which exists in spite of a discourse of decentralization and participation – and the absence of networks, information does not always travel easily. There is a limited degree of upstreaming and contextualization with regards to technical and practical matters, but from the fieldwork it appears that a substantial amount of the information gets lost in translation during this process, and that it is only the content that most easily travels within these structures – i.e. technical and quantifiable information – which gets upstreamed, and which holds the potential of leading to a contextualized version of the program, meaning that only with regards to technical issues, local realities are potentially used as an inspiration for the planning at the national or transnational level, but not with regard to more structural concerns.

Moreover, this contextualization of practical aspects is not usually based on the input of local rights-holders, but rather on an assessment of the local situation by UNICEF officers or consultants. In these cases, where consultants for example upstream information to the country office which is not based on local rights-holder's own input, we do not speak of genuine upstreaming, as the first link in the chain of upstreaming – i.e. rights-holders own voices - is absent. Hence a degree of contextualization does not per se mean that local voices have been listened to and

¹⁶⁸ What type of water treatment do people prefer? Reasons why they do not use soap to wash hands? Reasons why they want better latrines?

incorporated, and that we can speak of localization. To speak of localization, the concerns of local actors have to be taken into account in an adequate way, which is not currently happening.

11) Those mechanisms for upstreaming information which UNICEF implemented in the context of the Villages Assainis program do not allow for, or facilitate, the sharing of information which could lead to a reformulation of the HRBAD.

Despite a principled concern with contextualization and some consultation processes in the frame of the Action Research, the general structure of the program has largely remained unchanged, and there has not been a genuine bi-directional communication with regards to programmatic elements, core concepts or underlying assumptions of the program approach. While there is a limited number of tools for seeking input from below (such as the UReport system), these tools do not focus on strategic or conceptual matters, and thus do not allow for the contextualization of a HRBAD.

In order to obtain relevant input on local sensitivities which allows programming officers to adapt the approach and rethink it in a direction which is more locally relevant, voices of local rights-holders need to reach those in charge of the planning. This does not commonly happen, due to a lack of mechanisms for this type of information to travel. One of the only instances during which UNICEF interacted more systematically with voices from below with the goal of revising its approach, was in the context of the ECRIS study of the Action Research (WaSH DRC 2013p). However, this report too seems to be inspired by pragmatic concerns about how to implement pre-established goals in a more efficient manner rather than by seeking ways to use local-level dynamics as an inspiration for the program.

Moreover, there is little awareness-raising on conceptual issues or long-term strategic needs. For people to provide input on strategic matters, there arguably needs to be a process of awareness-raising first, to provide people with the knowledge needed to reflect on more structural issues. This awareness-raising could be carried out by norm-entrepreneurs, such as the *Médecins Chef de Zone*, but this did not happen, as these people are not trained in the HRBAD themselves and are not pressured by UNICEF to frame their interventions in a human rights discourse. They moreover have a compromised position between government and UNICEF in any case, which makes it difficult for them to adopt a critical discourse. The fact that there is no requirement for implementing partners to frame their interventions in a human rights discourse or to encourage people to think about their access to water in more structural terms instead of only as a technical matter, makes it questionable

whether UNICEF can expect to receive any input regarding its HRBAD which it can upstream and use to make its program more locally relevant.

Moreover, there have not been any genuine consultations with local rights-holders regarding their strategic needs or more conceptual issues, which makes it all the more unlikely that upstreaming or localization of the HRBAD can take place. The fact that local rights-holders have not systematically been consulted regarding the HRBAD by UNICEF and that UNICEF has not managed to structurally incorporate their input, can be understood when arguing that, as an external actor, UNICEF can allegedly never tap into the local understandings of rights-holders regarding these issues without the assistance of local partners, which is why the establishment of networks with local actors would be important to speak of a – localized – HRBAD.

Thus, while a limited degree of localization takes place at the sub-country level with regards to technical issues because of a pragmatic concern for efficiency, there has been no attention within the program for people's strategic needs or for localizing the approach of the program as such, meaning that little guidance is provided for rethinking the approach to better reflect local realities. This raises doubts about the extent to which an adaptation of the process based on the voices from below is possible. It is therefore safe to assume that the decision of UNICEF DRC to implement a watered down version of the HRBAD is not the consequence of a process of localization, since there has throughout scarcely been attention for the HRBAD as such, and for its localization in particular. As a consequence, no structures or mechanisms are in place which would allow for the localization of the approach. So in practice there is no contextualization or upstreaming with regards to the HRBAD, partially due to contextual factors, but also due to an interpretation on the side of UNICEF that only practical elements of the intervention should be adapted to the local context, not the approach as such.

If we look beyond the country level and assess the localization of the HRBAD at the level of headquarters, we see that at the same time that the country office rejected some core elements of a traditional HRBAD, the level of headquarters did so too, by increasingly focusing on new approaches and paradigms. It is difficult to assess which came first however, and hard to argue that the choice of headquarters to shift its focus is an instance of localizing the HRBAD, or even of responding to the concerns of the country office at all. It is equally plausible that this paradigm shift towards CATS and SanMark has its origins at the level of headquarters and emerged under the influence of an overall tendency towards more neoliberal paradigms, and that it has been adopted by the country offices in response. In any case, we refrain from calling

this paradigm shift an instance of localization, as it does not reflect the voices of local rights-holders.

The country office's lack of attention for voices from below can partially be explained by the fact that UNICEF headquarters does not insist on the implementation of all elements of its HRBAD because of a logic of decentralization. The decentralized structure of UNICEF leaves country offices much freedom, but at the same time headquarters imposes strict quantifiable parameters upon country offices. There thus lies a difficult balancing exercise ahead of headquarters, in which they need to strike a balance between the current focus on decentralization and local decision-making on the one hand, and providing the framework within which country offices need to operate to abide with UNICEF's Executive Directives on the other hand. If the goal is to ensure that the HRBAD materializes on the ground, and goes beyond its status of a mere discursive justificatory frame, more specific requirements should be imposed.

12) Since a genuine HRBAD – with its focus on top-down and bottom-up interventions – has never been implemented in this case, there has also not been any explicit attention for the creation of mechanisms for sharing local rights-holders' input, neither on practical nor on programmatic concerns. As a matter of consequence, also sharing input regarding local human rights understandings is hampered.

Our fieldwork revealed four sets of factor which interfere with the possibility for localizing human rights. Firstly, there is the fact that UNICEF is neither probing for the local rights understanding, nor aiming to translate the abstract discourse of human rights to local realities. Secondly, there are structural and organizational issues which have an effect on the potential for localizing human rights, such as the absence of mechanisms for sharing information on rights-related issues, low levels of commitment and absence of mechanisms to integrate community initiatives. Thirdly, relational factors play a role, in this case, the self-definition of UNICEF as a technical partner of government, the absence of good working relations with community-based organizations and the relation between the different levels of UNICEF offices have an effect. Lastly, contextual factors – in this case an unresponsive government and infrastructural factors – can affect the possibility of localizing human rights.

There have, so far, been no efforts by UNICEF to understand what the right to water means for local stakeholders, and how this interpretation stands in relation to the interpretation proposed by headquarters. Obtaining a clear understanding of the local meaning of the human right under consideration should arguable be the first

step of any kind of localization effort. As a consequence, there has been no localization of human rights norms, which challenges the legitimacy and local relevance of these norms.

7.4. DISCUSSION AND CONCLUDING REMARKS

In this report we probed for the relevance of the HRBAD for UNICEF and examined its implementation in the case of the *Villages Assainis* program in the DRC. While generalizing on the basis of a single case-study – even to, for example, the *Écoles Assainis* program in the DRC – is always a delicate matter, we have tried to focus on dynamics and structures which can also be relevant when studying other cases.

Two factors are particularly relevant when identifying causes for the non-implementation of the HRBAD, namely low levels of commitment and UNICEF's position as an external actor.

The low levels of commitment are illustrated by the fact that references to a HRBAD have been sporadic and contradictory throughout all operational documents, both at the level of headquarters and at the level of the country office. While the HRBAD has been a formal discourse of UNICEF since the early 2000s, there has not been much attention for the development of handbooks or operational tools which offered officers on the ground concrete anchor points. Moreover, due to the low commitment and the decentralized structure of UNICEF, headquarters has never credibly pushed the country offices to implement Executive Directive 98-04 in which the organization formally adopted the HRBAD. As a consequence, both the country offices and headquarters itself have been welcoming new approaches which were easier to operationalize and which did not require the broad and comprehensive type of interventions inherent in a HRBAD.

Secondly, UNICEF's position as an external actor, in combination with its reluctance to establish sound networks with organizations of civil society, also compromised its potential to credibly engage in a HRBAD. Currently UNICEF is only establishing partnerships with NGOs which can assist in the implementation of the program, and which can thus ensure that UNICEF reaches its quantifiable parameters, but because of an overly strong concern with these quantifiable parameters there is limited scope and resources to also engage in a structural manner with community-based organizations which have no immediate value in the short term, but which can facilitate the local embedding of the program in the longer run. This hints at the need to include a focus on non-quantifiable parameters in program evaluations. Doing so would require a move away from the current program evaluations which are, in

practice, still largely needs-based, and would entail a more genuine commitment to, for example, human rights concerns. The lack of attention for this, challenges dimensions like local ownership, bottom-up approaches, empowering potential of interventions and the establishment of durable and equal partnerships as such, and thus challenges the HRBAD as a whole. In addition the implementation of the HRBAD is challenged by the way in which UNICEF acts as an external partner, because it uses this status as a justification for adopting a hands-off policy vis-à-vis government, and thus does not insist that government develops human rights-based interventions.

A genuine commitment to human rights concerns, and to a HRBAD, would also lead to the establishment of mechanisms for upstreaming and contextualizing interventions, since the HRBAD has an inherent focus on this bi-directional process according to the UN Statement of Common Understanding. These mechanisms for localization of practical and programmatic concerns could then arguably also be relevant for the localization of human rights norms more generally, and thus for more responsive planning. Our report then, above all, underlines the importance of a genuine commitment to the HRBAD paradigm and the necessity of establishing broadly supported networks including actors from across the board, in order to ensure more responsive planning and a higher local relevance of interventions.

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APPENDICES

APPENDIX 1: INDICATORS OF AN INTEREST IN UPSTREAMING LOCAL INPUT

The documentary analysis of headquarters and national level documents was in the first place aimed at understanding the place, meaning and evolution of the HRBAD, but also probed for the potential to localize human rights. We gauged this potential by analyzing texts on the basis of seven indicators indicative of an interest in upstreaming local concerns and facilitating two-way interactions. Below, we discuss each of the indicators and discuss how they were assessed

1. *The concept of localization – or an equivalent thereof – is promoted in strategic and conceptual documents issued by various UN programs.*

This indicator tells us something about the extent to which localization and upstreaming of local human rights concerns is considered relevant by various UN-programs proceeding on the basis of a HRBAD. If there is no reference to, or interest in, the localization of human rights at the level of headquarters, it will be difficult for country offices to adopt a more flexible approach which integrates input from the local level. If, on the contrary, documents from the headquarters do indicate a concern with upstreaming policy issues and leave room for context-specific interpretations and application of the approach, then this can be considered as an enabling factor for country offices to facilitate this process in their day-to-day operations.

2. *The concept of localization – or an equivalent thereof – is promoted in operational documents issued by UNICEF's country office.*

This indicator tells us something about the extent to which bi-directional learning processes are considered relevant by UNICEF, not just in conceptual terms (indicator 1), but also in operational terms. Whereas the first indicator probed for a more theoretical interest in grassroots dynamics, this one probes for the attention to localization in operational documents. This indicator does not say anything about the success rate of the country office in putting this principle into practice, but merely probes whether an interest exists.

3. *There are formal mechanisms allowing local actors to give feedback to UNICEF's country office on the execution of the program.*

If there is an interest in upstreaming voices from below, provisions should be made in the planning and operational stage to install mechanisms for ensuring input of the grassroots level. These mechanisms can take on several forms, ranging from the organization of meetings between local representatives and UNICEF officials,

communication on the basis of periodic reports, the coordination of round tables between different stakeholders, etc. These formal mechanisms should feature in M&E documents of the project. In addition to these formal mechanisms, we used interviews to probe for the existence of informal mechanisms for feedback and input.

4. There are – relatively dense and horizontal – networks of actors across different levels.

If feedback and input from the local level is sought by UNICEF officials, then we can expect there to be – relatively – frequent contacts between UNICEF officials and local stakeholders and local rights-holders. We analyzed whether there were any formal networks or networking strategies, inscribed in the operational and strategic documents. The existence of such networks can be seen as a necessary – albeit not sufficient – condition for localization, as it is UNICEF's opportunity to tap into grassroots dynamics.

5. There are accountability mechanisms to hold local, national and UNICEF officials accountable and these are known to rights-holders and stakeholders.

Under a HRBAD the transnational actor should provide accountability mechanisms, which ensure that local rights-holders can voice their concerns in case of project mismanagement and that they get insight into the programming process and its specificities. This also helps local rights-holders to gain a firmer understanding of the process and to exercise agency along the way. This also facilitates the contextualization of programs and the upstreaming of local concerns, and is therefore also an indicator of localization. If these mechanisms are in place, we expect them to feature in the program documents.

6. There are documents indicating that UNICEF took recommendations from the grassroots into account and adapted its program to local concerns.

An organization concerned with the localization of human rights should not only demonstrate a programmatic and discursive engagement with this issue, but also actively aim to take input from the local level into account in its future operations, in order to make these more locally relevant. Given that the *Villages Assainis* program started in 2006, project managers have had the opportunity to adjust their program and project goals in order to best reflect the local sensitivities. We should thus expect to see goals, priorities and approaches change in a direction that resonates with the goals, priorities and approaches of local stakeholders as a result of a concern with localizing human rights.

7. *There is a systematic analysis of the projects' results regarding localization in the project monitoring phase.*

If localization is considered one of the goals of the human rights-based approach in general and of the *Villages Assainis* project in particular, then the achievement of this goal should also be evaluated in the monitoring phase. The existence of specific attention to this goal in the monitoring phase, is indicative of a genuine commitment to making human rights more locally relevant and taking local actors' voices seriously, whereas the absence of such measures suggest that the engagement with localization of human rights is mainly a rhetorical one which is not prioritized in practice.

APPENDIX 2: UN STATEMENT OF COMMON UNDERSTANDING (UN 2003)

Philosophy of the HRBAD

All programs of development co-operation, policies and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.

Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process. Development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights.

Key principles and essential elements

1. **Universality and inalienability:** Human rights are universal and inalienable. All people everywhere in the world are entitled to them. The human person in whom they inhere cannot voluntarily give them up. Nor can others take them away from him or her. As stated in Article 1 of the UDHR, "All human beings are born free and equal in dignity and rights".
2. **Indivisibility:** Human rights are indivisible. Whether of a civil, cultural, economic, political or social nature, they are all inherent to the dignity of every human person. Consequently, they all have equal status as rights, and cannot be ranked, a priori, in a hierarchical order.
3. **Inter-dependence and Inter-relatedness.** The realization of one right often depends, wholly or in part, upon the realization of others. For instance, realization of the right to health may depend, in certain circumstances, on realization of the right to education or of the right to information.
4. **Equality and Non-discrimination:** All individuals are equal as human beings and by virtue of the inherent dignity of each human person. All human beings are entitled to their human rights without discrimination of any kind, such as race, color, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies.
5. **Participation and Inclusion:** Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, economic, social, cultural and political development in which human rights and fundamental freedoms can be realized.

6. Accountability and Rule of Law: States and other duty-bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law.
7. Assessment and analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights.
8. Programs assess the capacity of rights-holders to claim their rights, and of duty-bearers to fulfill their obligations. They then develop strategies to build these capacities.
9. Programs monitor and evaluate both outcomes and processes guided by human rights standards and principles.
10. Programming is informed by the recommendations of international human rights bodies and mechanisms.
11. People are recognized as key actors in their own development, rather than passive recipients of commodities and services.
12. Participation is both a means and a goal.
13. Strategies are empowering, not disempowering.
14. Both outcomes and processes are monitored and evaluated.
15. Analysis includes all stakeholders.
16. Programs focus on marginalized, disadvantaged, and excluded groups.
17. The development process is locally owned.
18. Programs aim to reduce disparity.
19. Both top-down and bottom-up approaches are used in synergy.
20. Situation analysis is used to identify immediate, underlying, and basic causes of development problems.
21. Measurable goals and targets are important in programming.
22. Strategic partnerships are developed and sustained.
23. Programs support accountability to all stakeholders.

APPENDIX 3: CHALLENGES FOR 2007 AND BEYOND

(Excerpt WaSH 2006a)

The right to water. The Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women recognize the importance of ensuring access to safe drinking water and sanitation in progressively realizing the rights to the highest attainable standard of health and adequate living conditions. In 2002, the United Nations Committee on Economic, Social and Cultural Rights, through its General Comment 15, asserted that access to domestic water supply is a human right.

General Comment 15 also highlights the need for everyone to have access to adequate sanitation, as this is not only fundamental for human dignity and privacy, but is also one of the principal mechanisms for protecting the quality of drinking water supplies and resources. In accordance with the rights to health and adequate housing, States parties have an obligation to progressively extend safe water supply and sanitation services.

The right to water (and sanitation) is a recognition of the need and entitlement of all people to access safe, affordable and sufficient water supplies (and basic sanitation). As such, those without access to water (or sanitation) will be able to use this right to convince decision-makers to prioritize water supply (and sanitation) services. General Comment 15 requires United Nations agencies, including UNICEF, to cooperate with States parties, providing expertise in relation to the implementation of the right to water.

General Comment 15 contains very specific guidance for State parties (governments) to respect, protect and fulfill their obligations with regard to their citizens' right to water (and sanitation). Thus, the role of UNICEF will be to support governments in meeting these obligations.

UNICEF programming in WASH addresses the right to water as follows:

- UNICEF is increasingly active in WES sector policy development and strengthening. UNICEF advocates for the inclusion of the right to water and sanitation, including programmatic implications, in national sector policy documents and in policy application.
- UNICEF also analyses the use of government budgets for water supply and sanitation, and advocates for populations with low coverage to be prioritized, at all levels.

- In program implementation, UNICEF promotes the use of tools and methods that identify the unserved with least resources and influence and seeks to ensure

APPENDIX 4: POSTER OF THE VILLAGES ASSAINIS PROGRAM ADOPTING A HUMAN RIGHTS DISCOURSE

Village assaini, source de vie

VILLAGE ASSAINI

Chaque congolais, comme chaque être humain sur cette terre a le droit de boire de l'eau potable, d'avoir des toilettes ou des latrines et de vivre dans un environnement sain. Le droit à l'eau et à l'assainissement est un droit humain fondamental.

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APPENDIX 6: OVERVIEW OF ACTION RESEARCH REPORTS AND MAIN FINDINGS

Report	Main findings
<p>1.sAfter Action Review</p> <p><i>(la maintenance des points d'eau "Rapport synthèse des enquêtes action after review des activités de maintenance des pompes manuelles au sein du programme école et village assainis")</i></p> <p>- <i>WaSH DRC 2013o</i></p>	<ul style="list-style-type: none"> - Several measures have been taken to ensure maintenance of the manual pumps: training workers, establishing maintenance committees, installing better pumps, and establishing stores carrying spare parts - Several problems with these stores and carpenters: unknown by people and committees, too remote, only carried spare parts/had tools for one type of pump, wages too expensive, parts too expensive, not profitable, the initial stock provided by UNICEF has remained unchanged. - Recommendations: establish stores closer to the villages only work in villages that are close to stores, train people to better manage these stores. - Are these recommendations relevant in practice? - Remark: The main reasons for bad maintenance according to the report is that "the population does not yet consider water as a paying service" (see 2013o: 19-21, 24, 34). Turning water into a paying service is said to benefit the maintenance, even if many households are too poor to pay
<p>2. Approche Participative – de la facilitation communautaire</p> <p><i>(Recherche-action révision de l'approche participative du programme «village assaini»)</i></p> <p>- <i>WaSH DRC 2013h</i></p>	<ul style="list-style-type: none"> - Focus on community views, auto-evaluation, community maintenance, and strengthening local capacities - The Report aims to streamline activities in these four domains in order to increase community participation and offers practical tools to this end, i.e. setting out clear goals, asking crucial questions to the villagers, and integrating their answers in the planning - Practical recommendations for facilitators (involve women, set a clear timing, manage conflicts, build relations of trust, etc.) are provided.
<p>3. Au-delà du SanPlat – des approches alternatives à l'assainissement</p>	<p>Not available</p>

4. Villages et Écoles Assainis base des données	Not available
5. Community wide – l'intégration des villages et écoles	Not available
6. ECRIS – Étude socio-anthropologique	Elaborate discussion in text
<p><i>“Rapport final de l'enquête ECRIS réalisée dans le cadre du Program national Ecole et Village Assainis”</i></p> <p>- WaSH DRC 2013p</p>	
7. Etude de la durabilité des villages et écoles assainis de la phase 1	Not available
8. Forages Manuels et contrôle de qualité	<ul style="list-style-type: none"> - Discusses the technical norms and standards, and how villagers can test these themselves - This goes against the idea of the RO.2, that we should also adopt standards which are relevant for the villagers and not only the top-down imposed standards. - Recommendation of forming a National Union of Repairers, following the Chadian model. There is no elaboration on why this model would also work in the DRC context, given the practical constraints. - These workmen should be trained using the new manual which is developed in the report. This manual is highly technical, and not per se directly useful for the people on the ground.
<p><i>“Rapport final de la mission d'appui au renforcement des capacités en pratique de forage manuel”</i></p> <p>- WaSH DRC 2013g</p>	
9. Maintenance study volonté à payer pour l'eau	<ul style="list-style-type: none"> - 57% of the villages is not generating sufficient money to maintain the pump (avg of 4,8 instead of 25,5 USD p/m) - People are skeptical about planning and collecting money for the long term - The fact that people know about the link between water
<i>“Capacité/volonté des</i>	

<p><i>villageois à maintenir les sources d'eau potable méthodologie et résultats d'enquête"</i></p>	<p>and health is seen as an indicator of success, without asking whether this has also led to behavioral changes</p> <ul style="list-style-type: none"> - The idea was introduced that people can contribute to the 'caisse de village en nature' (if they paid somewhat more), this was no success and was not picked up. - The entire intervention should last at least one year in order to also facilitate a behavioural change. - The report restates some initial goals of the project (that before the start of the project, there should be promotional activities, that there should be adequate training materials showing the importance of correct hygienic behavior for the villagers, etc.) - Practical interview tools mainly focus on defining the current situation (how much do households contribute? how many households use the well? how much is in the cashier?), and pay no attention to the reasons why people do (not) pay, or why they do (not) maintain the well, or to the solutions which they themselves see. This way local stakeholders are used to fulfill UNICEF's immediate information needs, and not really to provide input on more structural issues.
<p>- <i>WaSH DRC 2013i</i></p>	
<p>10. Post-certification et rattrapage</p>	<p>Not available</p>
<p>11. Stratégie de complémentarité</p> <p><i>"Rapport sur la stratégie de complémentarité entre le program école et village assainis et d'autres programs WaSH"</i></p>	<ul style="list-style-type: none"> - The report mainly raises questions about the absorption capacity and the coordination with emergency programs. - There is often no budget foreseen to solve technical difficulties - The Bas-Congo was a pilot project, intended to serve as a case for lesson learning for other regions. - The report also envisions the integration of projects by other actors. In particular, there are talks with Perenco on their capacity to adopt certain principles (like gender parity), which are believed to be fruitful. - This is mainly an analysis of existing projects based on consultations with project partners, not with the population.
<p>- <i>WaSH DRC 2013i</i></p>	

<p>12. Sureté et qualité de l'eau</p> <p><i>“Water Safety Plans for ‘Village Assainis’”</i></p> <p>- <i>WaSH DRC 2013n</i></p>	<ul style="list-style-type: none"> - This study is carried out by an international consultant, and appears to have feeble roots in local realities. - There is little attention for the empirical findings and for a discussion on the shortcomings of the project or suggestions for improvements. - The field checklist for water safety appears to be rather generic and without reference to the specific context, which challenges its local relevance - No references to the HRBAD or CATS - The document acknowledges that some of the operation plans and emergency plans for the villages might exceed the knowledge of the average village producers, but does not offer any remedies for this.
<p>13. Qualité de l'eau</p> <p><i>“Water Safety Framework: Preliminary Water Quality Sampling and Analysis Strategy for the ‘Villages et Écoles Assainis’ National Program”</i></p> <p>- <i>WaSH DRC 2013m</i></p>	<ul style="list-style-type: none"> - Report complements RO.12, with more attention to context, and tries to adapt tests and interventions to the operational environment. - Sets out the steps of a WAS (e.g. identification of managers and users, communication plan, improvement and emergency plan, validation process) - Parameters are highly technical, with no attention to how to implement them in practice: I.e. they are context specific in the sense that they pay specific attention to micro-bacteriological contamination which can occur in this context, but there is no advice on how to apply this. - Costs for all these tests should be covered by the drinking water fund according to the report - This report too does not mention any consultations with the villagers who allegedly served as an inspiration for the decisions and suggestions made.
<p>14. Villages Assainis dans le peri-urbain - Bukavu</p> <p><i>“Rapport sur la recherche pour évaluer le comportement de la Communauté en matière des besoins WASH en zone Péri urbaine de (Kadutu) et une</i></p>	<ul style="list-style-type: none"> - The goal is to present an overview of current practices regarding access to water and hygienic services and of the barriers and the problems with existing technical solutions to these barriers. - Contrary to the ECRIS study, this report assumes villages to be generally homogenous, and to possess high degrees of community-belonging, social solidarity and obey the traditional leaders. - The report does, on the other hand, address many social

<p><i>révision des solutions techniques possibles dans le contexte de l'approche "Village Assainis" Bukavu, Sud Kivu, RD Congo"</i></p>	<p>issues, like the impact of 'new populations' on the community dynamics, the fact that all government-related actors are perceived as corrupt and thus illegitimate (even if they have formal authority and will be obeyed).</p>
<p>- WaSH DRC 2013j</p>	<ul style="list-style-type: none"> - The report attempts to capture the social structure and all the problems stemming from this, but has an inclination towards generic assumptions which do not seem to be based on meticulous anthropological research. - The report highlights the issue of voluntary participation. In many cases: voluntary participation in the project simply interfered with the everyday need to gain money and make a living. The assumption of voluntary participation, the report argues, can explain most of the failures. - On the other hand, the report points out that all groups know that there is a cost affiliated with water, and that, therefore, people are willing and used to paying for it. - This report does what it sets out to do: To analyze behavior and the technical solutions for behavioral problems.
<p>15. Étude sur les pièces de rechange des pompes manuels à l'Est</p>	<p>- The report contains little info on the interests and strategic needs of local actors, and is based on desk review, interviews with UNICEF staff, email, and interviews with key stakeholders (like resellers), no interviews with local rights-holders.</p>
<p><i>"Handpump supply chain analysis and mapping in Eastern DRC"</i></p>	<p>- The core idea is that business concepts should come to play a more important role in the program, in order to ensure a more efficient management.</p>
<p>- WaSH DRC 2015q</p>	

APPENDIX 7: OVERVIEW OF INTERVIEWS

UNICEF DRC country officer 1	CO1
UNICEF DRC country officer 2	CO2
UNICEF DRC country officer 3	CO3
UNICEF DRC country officer 4	CO4
UNICEF DRC country officer 5	CO5
UNICEF DRC country officer 6	CO6
UNICEF DRC country officer 7	CO7
UNICEF DRC country officer 8	CO8
UNICEF DRC Provincial officer 1	PO1
Innovation officers UNICEF HQ	HQ1 (double interview)
WaSH officer UNICEF HQ	HQ2
SNV officer	SNV1
National government official 1	NG1
National government official 2	NG2
Provincial government official 1	PG1
Médecin Chef de Zone 1	MCZ 1
Médecin Chef de Zone 2	MCZ 2
Médecin Chef de Zone 3	MCZ 3
Médecin Chef de Zone 4	MCZ 4
Médecin Chef de Zone 5	MCZ 5
Médecin Chef de Zone 6	MCZ 6
Médecin Chef de Zone 7	MCZ 7
Médecin Chef de Zone 8	MCZ 8
Médecin Chef de Zone 9	MCZ 9
Village 1 (Cataractes district)	V1 (focus group + interviews)
Village 2 (Cataractes district)	V2 (focus group + interviews)
Village 3 (Cataractes district)	V3 (focus group + interviews)
Village 4 (Cataractes district)	V4 (focus group + interviews)
Village 5 (Lukaya district)	V5 (focus group + interviews)

Village 6 (Lukaya district)	V6 (focus group + interviews)
Village 7 (Lukaya district)	V7 (focus group + interviews)
Village 8 (Bas-Fleuve district)	V8 (focus group + interviews)
Village 9 (Bas-Fleuve district)	V9 (focus group + interviews)

In this book we trace the evolution of the human rights-based approach to development in the UN system in general and in UNICEF in particular, and assess the way in which this approach is implemented in the *Villages Assainis* program in the Bas-Congo province of the DRC. The *Villages Assainis* program is a program of the Congolese government, initiated under the auspices of USAID, and currently heavily funded, and de facto managed, by UNICEF. UNICEF's formal adherence to a human rights-based approach to development triggers questions about the operationalization and implementation of this approach. This book presents the results of a document analysis and fieldwork and sheds light on the dynamics which influence the (non-)implementation of a human rights-based approach. It asks whether this paradigm is sufficiently relevant for local rights-holders to play a significant role in everyday interventions.

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The Localizing Human Rights Working Paper Series consists of studies on the local relevance of human rights, particularly but not exclusively in non-Western contexts. They form part of a long-term interdisciplinary project, combining insights from law, political and social sciences.

