

Water and sanitation as a human right

Photo by Petra Brussee/ IRC

The United Nations Committee on Economic, Social and Cultural Rights in 2002 issued a report on the right to water, General Comment 15. The Sub-Commission on the Promotion and Protection of Human Rights subsequently adopted the Guidelines for the Realisation of the Right to Drinking Water and Sanitation in 2006.

A year later the UN High Commissioner for Human Rights presented a study on human rights obligations related to access to safe drinking water and sanitation. The report stated that there is now a human right to equal and non-discriminatory access to sufficient and safe drinking water for personal and domestic uses to sustain life and health (IRC, 2008). In 2010, the UN said water and sanitation services that are safe, reliable, acceptable, sufficient and accessible were to be recognised as a human right. While now acknowledged in international law, the human right to water is not enforceable at national level until incorporated into national legislation.

DEBATES

Debates on the recognition of water and sanitation as a human right focus on the following:

1. Is it the government's sole responsibility to deliver water and sanitation, or is this a collective responsibility?
2. As a human right, should water and sanitation be delivered as a free good?

The state's role

Some governments find it difficult to include the human right to water and sanitation in legislation as

they cannot be solely held to account for non-delivery. They argue human rights and innovation in water and sanitation cross national boundaries. Governments around the world face complex and diverse realities about budget and capacity constraints. Responsibility for providing water and sanitation is therefore a collective responsibility and not the government's alone. It requires an inclusive process that draws upon the active participation of non-state actors, such as Non-Government Organisations, NGOs, and the private sector, e.g., water service companies (RWSN, 2013). Considered as a human right, it is a government's duty to create an environment conducive to the exercise of such rights.

Water and sanitation as a free good

While some lobby for water and sanitation to be treated as a free good (as a human right), the realities of delivery involve a great deal of human and financial capital. Owing to this, the UN stresses affordability as a core component in implementing water and sanitation services. It is therefore a government's duty to ensure that everyone can afford them. While governments are encouraged to work with other non-state actors, like the private sector, it has a duty to regulate charges to ensure that no one is excluded.

IMPLEMENTING WATER AND SANITATION AS A HUMAN RIGHT

National legal frameworks will need to be set in place for populations to enjoy their human right to water and sanitation.

Inclusion of the human right to water and sanitation in national legal frameworks translates from national commitments to actual practice. As early as 1996, before the UN ratified water and sanitation as a human right, the right to water was added in the constitution of South Africa, and the right to sanitation was included in its Water Services Act in 1997. Together with the National Water Act of 1998, these legislative measures ensure mobilisation of resources to achieve their progressive realisation¹ (De Albuquerque and Roaf, 2012).

The mandate of the UN Special Rapporteur on the human right to safe drinking water and sanitation, established in 2008 by the Human Rights Council, was to examine the issues around the human right to safe drinking water and sanitation and provide recommendations to governments, to the UN and other stakeholders. As Special Rapporteur, Catarina de Albuquerque carries out thematic research, undertakes country missions, collects good practices, and works with development practitioners on the implementation of the right to water and sanitation. She stresses that states must deliver water and sanitation services to meet the following criteria (De Albuquerque and Roaf, 2012):

Availability and quality: a sufficient amount of safe drinking water

The state is responsible for setting in place the relevant systems and structures that ensure the availability of quality water and sanitation services. General Comment 15 states there must be sufficient water for personal and domestic use. No consensus exists on how much is 'sufficient,' each country decides on a minimum amount. The UNHCHR notes however that the 25 litres per capita per day seen as the minimum standard to sustain life is insufficient to meet the requirements for consumption and basic hygiene. Some argue that specifying a minimum requirement might lower standards in societies where a higher minimum is in place (IRC, 2008).

General Comment 15 further states that safe water for personal and domestic use must be free from substances constituting a threat to a person's health; inadequate drinking water quality leads to serious health problems, such as infectious diarrhoea. The WHO guidelines on water quality are a reference point for countries.



Photo by Petterik Wiggers / Panos Pictures

Acceptability and accessibility: equal and non-discriminatory access

Water and sanitation services should be easily accessible to all to maximise their benefits to health, safety and dignity. As women and children spend large amounts of time in collecting water (in some societies, women are considered as the main water carriers), time spent fetching water is often associated with low school attendance rates for girls.

Gender-specific sanitary facilities are available, where appropriate, in public institutions, schools and hospitals. Water and sanitation services must be culturally acceptable and located appropriately for every human being. Although the UN provides definitions for access (within 1000 metres of the household and not exceeding 30 minutes collection time), each country sets its own targets based on national social, geographical and economic factors.

Affordability

Water and sanitation services must be affordable to all (but not necessarily free). They should not be in conflict with other human rights such as the human right to health, education and housing. Governments are responsible for deciding how the costs of water will be borne. The United Nations Development Programme suggests, however, that the costs for water should not exceed 3% of household income.

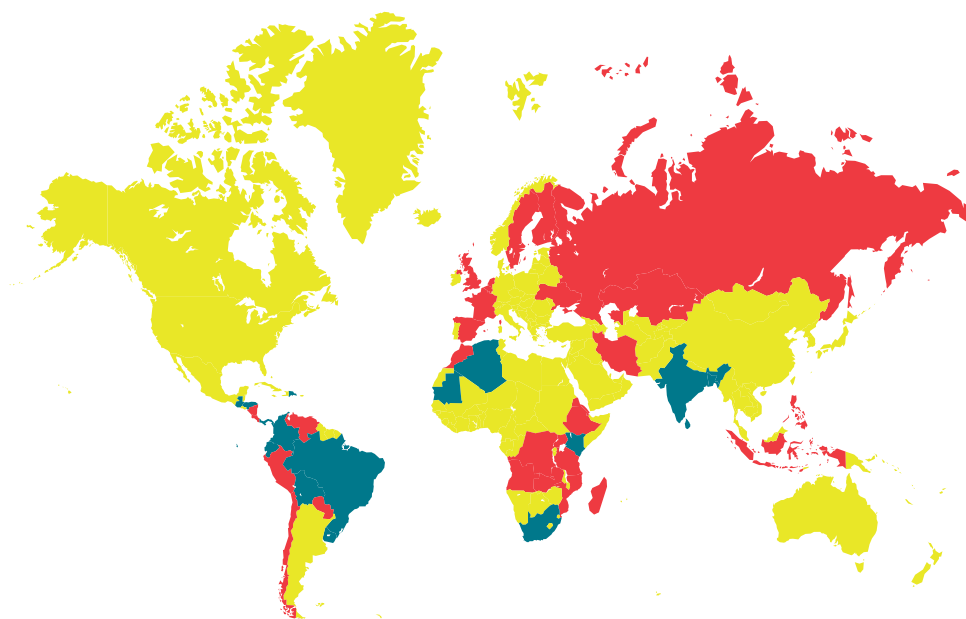
¹ For more information on South Africa, see De Albuquerque and Roaf, 2012, p.53.

The environment conducive to ensuring access to services that the government must provide includes: a legal and policy framework that embraces the key aspects of the rights to water and sanitation; clarity of who is responsible for delivering specific parts of those frameworks, in the form of a strategy and plan of action; a regulatory framework, which includes ensuring protection of the user, and clear standards to be independently monitored; funds and good management of those funds; a clear understanding of the nature and scale of assuring access to services, including access to information for the general population; capacity at the local level to deliver services, with local solutions, and full public participation in decisions made relating to access to services; and full monitoring of both targets and standards set, with emphasis on equality and pro-poor indicators, as well as monitoring which people do not have adequate access to services.

Source: De Albuquerque and Roaf, 2012, p.36.

Since water and sanitation was adopted as a human right, the number of states recognising the human right to water has doubled (The Rights to Water and Sanitation, 2013). In contrast, sanitation has fared poorly. Of the 46 countries that have included the right to water in legislation (in red), only 17 countries ratified the right to water AND sanitation (in blue).

COUNTRIES THAT HAVE INCLUDED THE RIGHT TO WATER (RED) AND RIGHT TO WATER AND SANITATION (BLUE) IN NATIONAL CONSTITUTIONS/ LEGISLATION



Source: Illustrated by Audrey van Soest based on data from The Rights to Water and Sanitation, 2013.

THE FUTURE AND POST-2015 DEVELOPMENT AGENDA

Water and sanitation as a human right is now being positioned in the post-2015 development agenda. Calls for its inclusion in the design of targets and indicators for the new Sustainable Development Goals (SDGs) is ongoing, and supported, among others, by the Directorate-General for International Cooperation (DGIS) of The Netherlands.

The creation of a fourth working group on equity and non-discrimination (next to working groups on water, sanitation and hygiene) by WHO/ UNICEF's Joint Monitoring Programme (JMP), to develop technical proposals to define the goals, targets and indicators for WASH global monitoring post-2015,² was a clear response to enlarging the scope of the MDG to make it more pro-poor and equitable.

² The Joint Monitoring Programme of WHO/ UNICEF is the official UN mechanism tasked to monitor MDG progress on water and sanitation. For more information, see info sheet A3. Political processes and technical consultations for the development of the post-2015 agenda.

A set of key components forms the basis of discussion and agenda setting for the post-2015 goals, targets and indicators:

- universal access to water and sanitation;
- progressive realisation of the human right to water and sanitation (see box); and
- eliminate inequalities and disparities in access.

Progressive realisation demands that states use maximum available resources for their citizens to enjoy the human right to water and sanitation. This requires careful planning, budgeting and monitoring to ensure that resources reach intended recipients (De Albuquerque, 2013), and that resource allocation does not draw attention away from other human rights.

References

Brocklehurst, C., 2012. Towards a shared global monitoring framework: defining a role for Sanitation and Water for All. In: *Second WHO/UNICEF Consultation on the Formulation of Post-2015 WASH Goals, Targets and Indicators*. The Hague, Netherlands December 2012. [ppt] Available at: www.wssinfo.org/fileadmin/user_upload/resources/Day2_Brocklehurst.pdf [Accessed 15 November 2013].

Smits, S., 2012. *Is the GLAAS half full or half empty? Water services that last* [blog] 16 April 2012. Available at: www.waterservicesthatlast.wordpress.com/2012/04/16/is-the-glaas-half-full-or-half-empty/ [Accessed 25 October 2013].

SWA-Sanitation and Water for All, 2013a. *Sobre SWA: a global issue. Many solutions. One partnership*. [online] Available at: <http://sanitationandwaterforall.org/about> [Accessed 14 April 2014].

SWA-Sanitation and Water for All, 2013b. *High level commitments dialogue*. [online] Available at: <http://sanitationandwaterforall.org/partner-workspace/high-level-commitments-dialogue> [Accessed 14 November 2013].

Swann, P., 2013. The role of UN-Water GLAAS in monitoring WASH. In: IRC, *Monitoring Sustainable WASH service delivery*. Addis Ababa, Ethiopia 9-11 April 2013. [ppt] The Hague: IRC. Available at: www.slideshare.net/ircuser/the-role-of-unwater-glaas-in-monitoring-wash [Accessed 8 May 2014].

WHO-World Health Organization, 2012. *GLAAS 2012 report: the challenge of extending and sustaining services*. [pdf] Geneva: WHO. Available at: www.who.int/water_sanitation_health/publications/glaas_report_2012/en/ [Accessed 28 October 2013].

WHO/ UNICEF, 2000. *Global water supply and sanitation assessment: 2000 report*. [pdf] NY: WHO and UNICEF. Available at: www.who.int/water_sanitation_health/monitoring/jmp2000.pdf?ua=1 [Accessed 14 April 2014].

WHO/ UNICEF, 2013a. *Introduction*. [online] Available at: www.wssinfo.org/definitions-methods/introduction/ [Accessed 25 October 2013].

WHO/ UNICEF, 2013b. *History*. [online] Available at: www.wssinfo.org/about-the-jmp/history/ [Accessed 25 October 2013].

Materials for further reading

United Nations, 2010. *Resolution on human right to water and sanitation*, UN General Assembly Research A/64/292. New York: United Nations.

United Nations Office of the High Commissioner for Human Rights, 2013. *Overview of the mandate*. [online] Available at: www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/Overview.aspx [Accessed 24 October 2013].

WHO/UNICEF, 2012. *UNICEF-WHO Joint monitoring programme process for drinking water and sanitation on post-2015 global monitoring of water, sanitation and hygiene: summary of the final report of the working group on equity and non-discrimination*. [pdf] Geneva: WHO. Available at: www.wssinfo.org/fileadmin/user_upload/resources/JMP-END-WG-Summary-2-pager.pdf [Accessed 5 November 2013].

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