



World Water Council
World Water Forum

The Right to Water:
From concept to implementation

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◆ Foreword

The right to water is an element that is indissociable from human dignity. Who, today, would dare say otherwise? For this reason, it has become and remains a moral duty to listen, to reflect on, to propose and to act so that the unfettered provision of drinking water and its corollary, sanitation, can gradually become a reality.

In any case, it is an effort to which the World Water Council wished to contribute by facilitating the work of a group of both qualified and impassioned individuals.

It was, first, essential to identify what was being discussed. Truly and concretely, what is this right, in its individual form and in its collective form? Are we evoking the right of the people or that of the States?

Then, it was necessary to specify various approaches to the way in which the right to water can be implemented, and in a practical, accessible and sustainable way. The concrete cases that are collected and presented here have the merit of doing this.

Lastly, it was crucial to identify the conditions that need to be met to encourage progress towards the right, in particular, the close association of national and local responsibilities in a single country.

This work was carried out and those who contributed must be congratulated. It is part of the debate so that all may pursue the dialogue and encourage a positive evolution of the subject.

No one can deny that the children, the women, the men, who populate our planet, have an elementary right: the right to live. Accordingly, this report is a modest but enthusiastic contribution to the fight against ignorance, injustice, poverty and thirst, and inversely, for knowledge, progress and tolerance. It is an honour for the World Water Council and its members to have initiated this step.

Loïc FAUCHON / President of the World Water Council

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This document was written by Céline Dubreuil, under the guidance of Paul Van Hofwegen.

► Acronyms:

CEDHA	Centre for Human Rights and Environment in Argentina
CELS	Centre for Legal and Social Studies
CESCR	Committee on Economic, Social and Cultural Rights
COHRE	Centre on Housing Rights and Evictions
DWAF	Department of Water Affairs and Forestry
GC15	General Comment No.15
HRTW	Human Right to Water
ICESCR	International Covenant on Economic, Social and Cultural Rights
MDGs	Millennium Development Goals
NGO	Non Governmental Organisation
PPIAF	Public-Private Infrastructure Advisory Facility
SABS	South African Bureau of Standards
UN	United Nations
UNICEF	United Nations International Children's Emergency Fund
WASH	Water, Sanitation and Hygiene for All campaign
WHO	World Health Organisation

Summary

1. The right to water is defined in the General Comment N°15 of the International Covenant on Economic, Social and Cultural Rights and entitles every human being to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use. The right to water includes the right to sanitation.
2. The right to water is necessary for the enjoyment of others human rights including the right to life and human dignity, the right to health, the right to adequate food, the right to adequate housing, the right to development and the right to a healthy environment.
3. The national government is primarily responsible for enabling implementation of the right to water through legislation, regulation, policies, work plans and associated budget allocations. The actual implementation is at local level where local governments and their service providers develop and extend services to the yet un-served.
4. To ensure continued implementation of the right to water, sustainability of the water sources, both quantity and quality, is essential. Local as well as national governments should include protection of water resources and water ecosystems as a main element in any implementation program of the right to water.
5. In order for the right to water to be implemented, the leadership and initiative of key actors, including government departments, NGOs and international agencies are required as 'boosters' to help revise laws and policies, provide education and assistance to communities, and ensure their effective participation in decision-making. The fact that the right to water and sanitation is included in international law - and increasingly in national law - is only a preliminary step and will not automatically lead to implementation. However, these rights provide the tools for authorities and key actors to advocate and implement the right to water.
6. The implementation of the right to water requires a clear definition of rights, obligations and responsibilities of each stakeholder, the identification of an authority to oversee the implementation of this right, as well as the allocation of adequate human and financial resources.
7. The right to water can be implemented in various ways, which can all be effective if appropriate to the national and local context and actively involves all relevant stakeholders.
8. For the successful implementation of the right to water, local initiatives and community's participation should be fostered. It is necessary to raise awareness about the existence of the human right to water, particularly amongst poor and marginalised people.
9. Meeting the costs associated with implementation of the right to water requires solidarity between citizens, cities and regions to make access to water and sanitation services affordable to all people, especially the poorest. This solidarity must be institutionalised.
10. Implementing the right to water in countries where almost all of the population has access to safe water has a different meaning than in countries where a large portion of the population does not yet have this access. International solidarity is particularly important in the poorest countries.

11. For effective implementation, the right to water should be included in the national legislation but also in policies and action plans. However, the lack of explicit mention of the right to water in national laws should not be an excuse not to implement it.

12. The implementation approach for the right to water must be sustainable, ensuring that this right may be guaranteed for present and future generations.



INTRODUCTION

This report starts with the observation that there is significant support for the concept of the right to water. Heads of State, members of government, parliamentarians, civil society representatives and many others have spoken in favour of the right to water on an individual basis. However, recognition of the right to water by governments is uneven.

At the United Nations General Assembly, the UN Commission on Human Rights, and the Rio Conference on Environment and Development, States accepted mention of the right to water. At the Cairo Conference on Population and Development, they recognised the right to water and sanitation. However, at the 2005 meeting of the Commission for Sustainable Development, States did not agree on reference to the notion of right-based approaches. Many countries do not take an official position on the right to water. Where does the problem come from, when economic and social rights such as the right to food are formally recognised in international law?

The UN General Comment No.15 on the Right to Water, which was adopted in 2002 has contributed to clarifying the scope of the right to water and stimulated significant action by civil society, and legislative recognition of the right to water in a small number of countries. However there are countries which have not yet taken steps to implement measures required under the right to water. Several reasons may explain this situation:

- The relative lack of interest in water on the part of certain centralised governments as a service to render to citizens. It is interesting to note, however, that in contrast to national governments, local governments loudly and clearly state their attachment to implementing the right to water for their citizens;
- Continued reluctance based on the misunderstanding that the right to water implies exemption from payment for consumers; and
- A certain apprehension that human rights when applied to water may have negative implications on resource management, including international water resources.

Today, we must re-examine these questions, clarify the content of the right to water and, crucially, move forward with its implementation. This implies that the debate must be focused on what the human right to water really means, which is access to water for life and dignity. When mentioning the human right to water, it implicitly includes the right to sanitation.



It is our responsibility to make sure that the essential needs for water and sanitation of everyone, particularly those who are most in need and those who are excluded, are met. The implementation of the Millennium Development Goals should contribute to satisfying these needs. However, much still remains to be done so that each woman, man and child may exercise their effective right to water and sanitation.

The synthesis presented in this report aims to:

- Clarify the meaning of the right to water;
- Present approaches on how right to water can be implemented in developing and developed countries, in rural and urban areas, and in a practical and affordable manner;
- Identify key factors for effective implementation of the right to water. 💧





WHAT IS THE ISSUE?

Many people don't have access to water and sanitation. The acknowledgement of water as a human right may prove the most valuable approach to addressing the challenge of providing people with the most basic element of life.

Over recent decades, the urban-industrial model of life has developed so dramatically, that it has generated a serious crisis of rural disintegration and urban saturation, creating public health problems in poor countries. This crisis has been aggravated by factors such as accelerating population growth, increasing inequalities, national or regional conflicts and the influence of climate change on the water cycle.

It has been estimated that in order to meet basic needs, individuals require a minimum of 20 to 50 litres of safe water each day¹. Despite water's necessity to life, the reality is that billions of people worldwide are denied access to safe water. In 2002, the WHO estimated that 1.1 billion people (17% of the global population) lacked access to improved water sources, and 2.6 billion people (42% of the global population) lacked access to improved sanitation. Every day, 3,900 children under the age of 5 die from water-related diseases (e.g. diarrhoea). The lives of these people, often among the poorest on our planet, are devastated by this deprivation. Lack of access to water also impedes the enjoyment of health and other human rights (e.g. right to education, right to adequate standard of living, right to food).

To improve the situation in terms of water supply and sanitation, international commitments have been made through the United Nations Millennium Development Goals (MDGs), one of which aims to *halve the proportion of people who are unable to reach or to afford safe drinking water by 2015*. The Johannesburg Declaration adopted at the World Summit of Sustainable Development in 2002, also set a new target to *halve the proportion of people who do not have access to basic sanitation by 2015*. The International Decade for Action "Water for Life" aims to galvanize efforts to meet the internationally agreed targets, placing special emphasis on the involvement and participation of women in these efforts.

Meeting the targets on water and sanitation would also contribute significantly to the realisation of other MDGs, including reducing poverty, promoting gender equality, reducing child and maternal mortality and providing universal primary education. According to WHO's Report², the costs of achieving the MDG drinking water and sanitation target are affordable; the human costs of failing to do so are not.

As a result of the MDGs, actions to provide access to water and sanitation are underway all over the world. However, this is not enough. It is necessary to prioritise providing and maintaining water and sanitation services. Inadequate attention to water in Poverty Reduction Strategy Papers (PRSPs) illustrates the challenges governments have in making choices and setting priorities with limited means at their disposal.

Will the right to water help in setting political priorities and in achieving the MDGs?

1- United Nations World Water Development Report (2003)

2- World Health Organisation (WHO) (Hutton & Haller) Evaluation of the Costs and Benefits of Water and Sanitation Improvements at the Global Level, 2004



THE SCOPE OF THE RIGHT TO WATER

There is much debate on right to water and its meaning. In this chapter, we try to clarify some of the different viewpoints.

Water has not received the attention it deserves as a public good which is essential for life. There are increasing and conflicting demands on its use, which are compounded by the fact that water resources are being polluted or badly managed, causing a further depletion of safe water sources. Water has been established as a public or common good, but its role as an economic good often overrides this.

The usefulness of water in its various functions is evident. And with the exponential demand of water for its various uses, freshwater has become a rare asset, which accentuates its role as an economic good.

Treating water as a purely economic good implies that its various functions are considered as interchangeable values that can, therefore, be measured in monetary terms. However, the values linked to water are often complementary and, thus, cannot be replaced by money. For instance, the fundamental values of life, which are essential for dignified living conditions by people or communities are linked intrinsically to the values of preservation of the environment and aquatic ecosystems; the values of intra- and inter-generational equity or the values of social cohesion that water-distribution services bring. The value of these functions should not be administrated according to market rules, since they cannot be measured in monetary terms.

However, it is important to distinguish different categories of values at stake and the ethical criteria of fairness and sustainability in order to establish an order of priority among user rights, as well as management criteria for each level.

The different functions and values of water can be divided in three complementary levels:

- *Water for life* concerns providing water for the survival of both human beings (individual and collective) and other living beings. This must be recognised as the highest priority in order to guarantee the sustainability of ecosystems so that access for all to a minimum quantity of good quality water is recognised as one of the human rights.
- *Water for citizens* concerns providing water for general interest purposes, as regards public health or the promotion of values of equity or social cohesion, must be ranked at the second level of priority, in connection with citizen's social rights and in the general interest of society as a whole. This is the role of public institutions.
- *Water for development* is an economic function relating to production activities which in general concerns private interests like irrigation for agriculture, hydroelectricity, or industry and should occupy the third level of priority.

This function consumes the largest part of all water resources from rivers and aquifers, and is, therefore, largely responsible for the problems of scarcity and pollution arising in the world. This production-based demand must be managed in accordance with economic efficiency, social equity and environmental sustainability.

The Human Right to Water “entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses”³. This definition has been provided by the General Comment No.15 which interprets Articles 11 and 12 of the ICESCR⁴ referring, respectively to the right to an adequate standard of living and the right to the highest attainable standards of health. It goes on to state that ‘an adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements’.

The importance of water for a range of different purposes to realise many other rights is referred to, including the importance of ensuring sustainable access to water resources for agriculture to realise the right to adequate food. According to the CESCR, ‘Nevertheless, priority in the allocation of water must be given to the right to water for personal and domestic uses’.

The ‘right to water’ should be distinguished from ‘water rights’ which generally refers to accessing or using water for specific purposes. Law concerning water rights may define who can use water and under which circumstances. Individuals can be allocated water rights which may consist of a predefined amount of water for specific purposes under specific conditions (e.g. farmers have water rights for irrigation purposes). However, these two types of right are interlinked. The HRTW focuses on the amount of water necessary for basic human needs (about 50 litres per person per day), which is a small amount in comparison to the large quantities used for economic development (1500 litres per person per day in France)⁵. The right to drinking water does not broach general issues linked to environmental protection or integrated management of resources. In most cases, the taking of water to implement the human right to water does not affect the other uses which are subjected to general water rights.

This report deals with how the recognition of the Human Right to Water and its implementation facilitate access to water and basic sanitation. 💧



3- General Comment 15, Committee on Economic, Social and Cultural Rights (CESCR), 2002

4- International Covenant on Economic, Social and Cultural Rights. This Covenant is one of the major human rights treaties that have been adopted and are being monitored within the framework of the United Nations human rights system. It has been in force since 1976 and currently 153 States have ratified the treaty and are therefore legally bound by it. This means they are obliged to implement the provisions of the treaty at the national level

5- Translated from Smets, H. «Le droit à l'eau, un droit pour tous les citoyens.» Académie de l'Eau, 2005



IS THE RIGHT TO WATER A LEGALLY PROTECTED RIGHT?

The right to water has been explicitly recognised in a number of legally binding treaties. The right to water is also an integral part of other human rights, such as the right to life, which is contained in the International Covenant on Civil and Political Rights (1966), and the rights to health, food, housing and an adequate standard of living, which are included in the International Covenant on Economic Social and Cultural Rights (1966). These rights are also provided for in a series of other international and regional treaties.

Legally binding upon states that have signed them, there is explicit reference to the right to water in two core international human rights treaties:

- **The Convention on the Elimination of Discrimination Against Women (1979)**

Art. 14 (2) State Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order 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 communication.

- **The Convention on the Rights of the Child (1989)**

Article 24 (1) 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) State 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 application of readily available technology and through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution [...]

And also in regional instruments:

- **The African Charter on the Rights and Welfare of the Child⁶ (1990)**

Article 14 (1): Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health. (2) State Parties to the present Charter shall undertake to pursue the full implementation of this right and in particular shall take measures: (c) to ensure the provision of adequate nutrition and safe drinking water.

- **The Protocol on Water and Health⁷ to the 1992 Convention on the Use of Transboundary Watercourses and International lakes, European Commission of the United Nations for Europe (1999)**

6- Adopted on 11 July 1990 and entered into force on November 1999.

7- Ratified by 16 countries and entered into force on August 2005.

Article 4(2): Parties shall, in particular, take all appropriate measures for the purpose of ensuring: (a) adequate supplies of wholesome drinking water...;(b) adequate sanitation...

Article 5: Parties shall be guided in particular by the following principles and approaches: (1)...equitable access to water, adequate in terms of both quantity and of quality, should be provided for all members of the population, especially those who suffer a disadvantage or social exclusion.

Article 6(1): The Parties shall pursue the aims of: (a) access to drinking water for everyone; (b) provision of sanitation for everyone.

• **Senegal River Water Charter⁸ (2002)**

Extract from Charte des Eaux du Fleuve Sénégal - Art.4: «les principes directeurs de toute répartition des eaux du Fleuve visent à assurer aux populations des Etats riverains, la pleine jouissance de la ressource, dans le respect de la sécurité des personnes et des ouvrages, ainsi que du droit fondamental de l'homme à une eau salubre, dans la perspective d'un développement durable.»

The right to water has been enshrined in other regional instruments that have not yet entered into force. In addition, various United Nations agencies, regional human rights bodies and national and local courts have interpreted the right to water as being implicit under other human rights, such as the right to life, the right to an adequate standard of living and the right to health. These have been enshrined in international, regional and national human rights instruments.

In addition to recognising the rights to life, health, and/or standard living, the national legislation of several countries has explicitly recognised a right to water and/or the obligation of the state to provide everyone with access to clean water. Several states have made formal commitments to providing a right to water, and more and more countries have introduced an explicit right to water in their Constitution. One such example is South Africa. Section 27(1b) of the Bill of Rights of the Constitution of South Africa states: "Everyone has the right to have access to sufficient food and water". Other countries like the Congo, Ethiopia, Gambia, Uganda, Zambia and Ecuador also either mention explicitly the right to water or the right to basic social services in their Constitution. More recently, in Uruguay, a public referendum in 2004 enacted the HRTW into its Constitution. Over 64% of the population voted in favour of the amendment. This approach is recent and is being increasingly adopted. For example, the new draft Kenyan Constitution (proposed in 2005) recognises the right to water⁹ and sanitation¹⁰.

In practice, however, even though a legal framework may exist, the right to water is often not applied for a variety of reasons: lack of resources, absence of political will, or simply people and governments are not aware the right exists or how to implement it. 💧

► In order for the right to water to be implemented, the leadership and initiative of key actors, including government departments, NGOs and international agencies are required as 'boosters' to help revise laws and policies, provide education and assistance to communities, and ensure their effective participation in decision-making. The fact that the right to water and sanitation is included in international law - and increasingly in national law - is only a preliminary step and will not automatically lead to implementation. However, these rights provide the tools for authorities and key actors to advocate and implement the right to water.

8- Signed by the Republic of Mali, the Republic of Mauritania and the Republic of Senegal.

9- Art. 65 : "Every person has the right to water in adequate quantities and of reasonable quality."

10- Art. 66 : "Every person has the right to a reasonable standard of sanitation."



CONTENT OF THE HUMAN RIGHT TO WATER

General Comment No.15¹¹ is the first official UN document that fleshes out in detail the content of the right to water. It clearly states that the right to water emanates from and is indispensable for an adequate standard of living as it is one of the most fundamental conditions for survival.

“The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, reduce the risk of water-related disease and provide for consumption, cooking, personal and domestic hygienic requirements”.

General Comment No. 15, CESCR, 2002

Sufficient. An adequate quantity must be available in accordance with international guidelines. This ordinarily means 40-50 litres per day and an absolute minimum of 20 litres.

Safe and acceptable. Water must be safe for each use. Water for drinking must meet a very high standard. Water should be of an acceptable colour, odour and taste.

Physically accessible. Water must be within safe physical reach, either within the house or near the household.

Affordable. Water should be affordable and must not affect a person’s ability to buy other essential goods.

As with any human right, the right to water imposes three types of obligations on State Parties:

Respect. Governments must refrain from unfairly interfering with people’s access to water, for example, by disconnecting their water supply.

Protect. Governments must protect people’s access to water from interference by others, for example, by preventing pollution.

Fulfil. Governments must adopt the necessary measures directed towards full realisation of the right, for example, by passing legislation, devising and implementing programmes, allocating budgets and monitoring their progress.

The CESCR calls for **progressive realisation** of the right to water and acknowledges that – due to limits of available resources – immediate realisation of this human right may be constrained.

11- The General Comment No. 15 (GC15) on the right to water is an official legal interpretation issued in 2002 by the Committee on Economic, Social and Cultural Rights (CESCR) which is the monitoring treaty body to the ICESCR. The GC15 is an interpretation and not a treaty. Therefore it is not legally binding itself. However, it is based on the provisions of the ICESCR and on the general acceptance of fundamental human rights like the right to life and the right to health.

While full realisation may take time, certain steps must be undertaken immediately. GC15 stipulates that these steps must be deliberate, concrete and targeted towards the full realisation of the right to water. Particular focus should be put on nine core obligations.

Core obligations

- To ensure access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease;
- To ensure the right of access to water and water facilities and services on a non-discriminatory basis, especially for disadvantaged or marginalised groups;
- To ensure physical access to water facilities or services that provide sufficient, safe and regular water; that have a sufficient number of water outlets to avoid prohibitive waiting times; and that are at a reasonable distance from the household;
- To ensure personal security is not threatened when having to physically access water;
- To ensure equitable distribution of all available water facilities and services;
- To adopt and implement a national water strategy and plan of action addressing the whole population; the strategy and plan of action should be devised, and periodically reviewed, on the basis of a participatory and transparent process; it should include methods, such as right to water indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all disadvantaged or marginalised groups;
- To monitor the extent of the realisation, or the non-realisation, of the right to water;
- To adopt relatively low-cost targeted water programmes to protect vulnerable and marginalised groups;
- To take measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation.

The human right to water also explicitly includes the right to sanitation. The CESCR's General Comment No.15 states that *"State parties have an obligation to progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account the needs of women and children"*.

The UN Sub-Commission on the Promotion and Protection of the Human Rights has provided further guidance on the right to sanitation. As set out in the Final Report of the Sub-Commission's Rapporteur on this topic, the human right to sanitation requires that States ensure to each person, access to safe, accessible, acceptable and affordable sanitation facilities in or near to their homes and public institutions (including educational institutions, hospitals and places of work).

It includes the following features:

- **Availability:** sufficient sanitation facilities;
- **Quality:** sanitation facilities should be designed in a manner such that they minimise health hazards, are conducive to hygiene, and are consistent with the privacy and dignity of individuals, taking into account cultural preferences of users and the special requirements of women and children;



- *Accessibility*, which comprises: (i) Physical accessibility - sanitation facilities should be within safe physical reach for all sections of the population, in the immediate vicinity, of each household, educational institution and workplace, in a safe location; (ii) Affordability (or Economic Accessibility) - sanitation facilities must be affordable; (iii) Non-Discrimination - sanitation facilities and services should be accessible to all without discrimination; iv) Information accessibility – accessibility includes the right to seek, receive and impart information regarding sanitation issues.

Fulfilment of the right to sanitation relies on the creation of opportunities for active community participation. In order for the right to be fulfilled, particularly in developing countries with limited resources, it may be necessary to rely on low-cost sanitation systems rather than expensive sewage networks. The design and maintenance of such systems require input and active participation by communities.

The right to sanitation implicitly includes the right to hygiene education, since the transmission of disease may occur even where sufficient water and sanitation facilities exist due to unsafe behaviours. Hygiene education may also be necessary in some cases in order to stimulate greater demand for sanitation facilities. Gender and age concerns are paramount in the design of sanitation facilities – one of the primary sources of insecurity for women and girls is the lack of available sanitation facilities in safe locations close to the home or in school. Finally, the right to water and sanitation are interdependent. The right to water, particularly the aspect of water quality, cannot be realised without adequate sanitation for all. Conversely, to ensure hygiene and adequate sanitation, each person should have access to a minimal amount of water on a regular basis. Sanitation and water supply are integrally linked and therefore an integral part of the human right to water ¹². 💧

12- UN Sub-Commission on Promotion and Protection of the Human Rights, *Relationship between the enjoyment of economic, social and cultural rights and the promotion of the realisation of the right to drinking water supply and sanitation: Final Report of the Special Rapporteur* (2004).



RIGHTS & DUTIES

The implementation of the human right to water and sanitation requires implementation of rights and duties both for users and authorities.

Rights of Users

- Priority for personal and domestic uses over other uses, right to draw water freely from nature and 'normal' access to drinking water;
- Right to benefit from safe water and sanitation services at an affordable price within a defined area;
- Progressive extension of networks;
- Supply of water in emergency situations;
- Accessible and affordable water sources and public sanitation installations for the poorest;
- No disconnection of essential levels of supply to poor users;
- Ensure access to information, consultation, participation and right to initiate legal proceedings;
- Disseminate information about rights to water and sanitation.

Duties of Users

- Not to waste water;
- Not to pollute the resource;
- To ensure proper individual sanitation or to be connected to collective sanitation;
- To pay a fair price for the service, including fees and taxes;
- To pay the charges for extending services;
- To comply with use restrictions in the case of drinking water shortages;
- To contribute to covering costs for acts of solidarity (fiscal or price equalisation, international solidarity);
- To request the assistance of social services;
- To cooperate with water services;
- To exercise their rights and monitor the acts of public officials.

Rights of Authorities

- To license or not user installations for water;
- To follow adequate standards and use appropriate technologies;
- To collect subsidies and aid;
- To establish prices in relation to users' capacity to pay;
- To choose operators and to control them;
- To forbid the distribution of water that does not meet standards;
- To receive payment for the price of water;
- To cut off water supply for those who do not pay and are in a position to do so;
- To pursue offences and violations.

Duties of Authorities

- To establish priority for personal and domestic uses;
- To protect collection points and water quality;
- To create a positive legal framework for investments and for proper of water and sanitation services operations, to adopt strategies and plans of action, to organise funding, to ensure proper maintenance and renovation of installations;
- To identify those that do not have access to water and sanitation (rural, marginal and vulnerable populations) and to take corrective measures;
- To encourage information for and participation of users;
- To monitor the quality of water and sanitation;

CHALLENGES TO THE ACCEPTANCE OF THE HUMAN RIGHT TO WATER



Although the right to water has been recognised as a right at the international level, significant work is required to ensure its implementation at the domestic level. Its effectiveness will depend on the will and capacity of States to assume responsibility in terms of implementation, monitoring and enforcement. Implement access to water as a human right requires those responsible to consider how a human rights based approach may be applied in view of economic and technical limitations. It implies identification of priorities in government policies, with limited resources.

The **lack of proper understanding** of the meaning of the right to water, as well as its implications and obligations, may explain why some governments are hesitant to accept the HRTW. Thus, it is important to look closely at some of the affirmations in order to dispel any misunderstanding.

- *Does the HRTW mean that water must be free for all users?*

It means only that the costs committed with a view to providing a safe water supply and sanitation must be recovered, on condition that all have access to safe water. Hence where the need arises, ways (e.g. through redistribution mechanisms, or through raising specific taxes) must be found to make the price of that water affordable for even the most disadvantaged members of society.

- *Does the HRTW mean that every dwelling must be served by water distribution systems and sewer systems?*

It means only that every individual must be able to connect onto the existing systems or have access to one or more safe water sources within a reasonable distance and time where such systems are unavailable.

- *Does the implementation of the HRTW mean significant additional expenditure?*

It only means that State parties, who are engaged in the implementation of the Millennium Development Goals and Johannesburg Declaration, have to fund some complementary measures for a sum that depends on the current situation of the countries.

- *Does the HRTW mean that any individual without access to water will be able to seek legal redress against public authorities?*

It means only that public authorities have responsibility to respect, protect and fulfil the right to water. Where they fail to do so, individuals can argue their case against the public authorities in court. However, within General Comment No.15, the legal obligations of the public authorities are defined with all due caution and allow for progressive implementation of the right to water.

- *Does the HRTW mean that the public authorities must manage the water services directly?*

The human right to water does not address the mode of service delivery, as long as the standards set out in General Comment No.15 are upheld. It means only that the public authorities must exercise effective control over the water services after first choosing the most appropriate management method – public, private or semi-private – for those services. Any mechanism chosen must ensure genuine public participation, transparency and penalties for non-compliance with human rights standards.

- *Does the HRTW mean that the safe water of one country must be supplied to neighbouring countries that lack that resource?*

Recognition of the right to water in no way affects State parties' right to exercise full sovereignty in the management of their water resources while meeting their international commitments. Where countries share water resources on their borders, the right to water does not affect the claims that States can make on each other. The division of such resources is covered by international customary law that specifically addresses the division of transboundary water resources.

Besides these common misunderstandings, other reasons may explain why some authorities are reluctant to accept the right to water:

- A problem of **priorities**, which can be explained by budgetary constraints and the multiplicity of demands. It is necessary to continue to put forward the socio-economic arguments in favour of water and sanitation in order that these basic services be part of priorities during the construction of the political consensus.
- **Political reasons.** Some governments are reluctant to support any economic, social and cultural rights because they are not party to the ICESCR (which has 152 ratifications) or are afraid of its extension; others are opposed to accountability at the international level due to a lack of respect for human rights or wish to exclude the right to water because it could generate extra demands on available overseas development assistance. Some governments are afraid that they will lose sovereignty in the management of their water resources, but as mentioned above, this will not be the case.
- **Economic aspects.** Many countries where significant number of people are without sufficient access to water and sanitation lack financial resources for implementing the right to water. The concept of the right to water therefore should guide them in directing their available resources to the cases of greatest need, and in taking progressive steps to implement the right. The right to water also bolsters the case for international assistance and cooperation necessary to ensure at least the core obligations related to the right to water.

As a result, the articulation of the human right to water at the domestic level is lacking in many countries. Its effectiveness will depend on the will and capacity of States to assume responsibility in terms of implementation, monitoring and enforcement. Implementing the concept of access to water as a human right may raise economic and technical problem, and is a political and social issue. It implies identification of the priorities in government policies, despite limited resources. 💧

► The implementation of the right to water requires a clear definition of rights, obligations and responsibilities of each stakeholder, the identification of an authority to oversee the implementation of this right, as well as the allocation of adequate human and financial resources.



IMPLEMENTING THE HUMAN RIGHT TO WATER

● Implementing the right to water in countries where almost all of the population has access to safe water has a different meaning than in countries where a large portion of the population does not yet have this access. International solidarity is particularly important for the poorest countries.

Once defined, it is necessary to find the appropriate methods for implementing the human right to water.

Implementing the human right to water means prioritising access to essential amounts of water for those who do not have it, as well as protecting current access to water supply and sanitation. Priority actions in the implementation of the right to water also involve raising awareness of the meaning of the human right to water with the public and governments, developing financial and human resources, strengthening legislation and access to justice, as well as increased political will.

Appropriate levels of decision-making must be defined and the most appropriate (political) authority should be in charge of the different aspects of implementing the right to water. The means, institutional arrangements, financial mechanisms and operational choices must also be clearly and transparently defined and understood by all authorities involved.

After establishing provisions, (i) the provider has an obligation to keep the facilities in adequate operating order, (ii) the recipients of these services contribute to the security of facilities (including payments for services) and (iii) mechanisms need to be in place to ensure the poorest still have access.

Generally, implementation of the right to water should rely on:

- Public authorities who organise services with respect to their duties towards citizens/users.
- Consultation and participation of communities in decision-making processes.
- Solidarity in costs-sharing between all (e.g. social tariffs, subsidies).
- Local initiatives.

Most often, the right to water is ultimately implemented by local authorities (municipalities or regional entities) through water utilities. Public authorities must exercise effective control over water services after having chosen the most appropriate management method – public, private or mixed – for these services. The State should enable the sub-sovereign entities to implement right to water.

However, regarding implementation modalities, it's important to differentiate between (i) countries where the systems to connect a large portion of people are still lacking and (ii) countries where infrastructure is available and almost all people have access to water.

Similarly, a distinction must be made between urban and rural areas, as there are different technologies relevant for differing levels of density and proximity to a functioning water system. While it can be difficult to ensure adequate service delivery to rural areas for reasons of distance, it can be equally difficult to ensure adequate service delivery to poor urban areas. However, realisation of the right

to water means that everyone must be able to connect themselves to existing networks or have access to a source of drinking water when networks are non-existent.

Value-Added of the Right to Water & Sanitation

The human right to water and sanitation has five primary features which make a significant contribution to current developmental efforts to improve access to water and sanitation:

- **Priority for people without basic access to water and sanitation**

The right requires that governments must prioritise ensuring access to adequate water and sanitation services to all, using available resources in a pro-poor manner.

- **Access to water and sanitation as a legal entitlement, rather than mere charity or a commodity**

The right to water and sanitation provides a strong basis for individuals and groups to hold States and other actors to account. It also obliges wealthier States to contribute sufficient international assistance necessary to complement national efforts in developing countries to ensure that everyone has access to safe water and sanitation.

- **Preventing discrimination and neglect of vulnerable and marginalised communities**

The right to water and sanitation challenges situations in which denial of access to water may be a deliberate choice of governments or local authorities to exclude communities seen as undesirable.

- **Empowering communities living in poverty to fully take part in decision-making processes**

The human right to water and sanitation requires genuine consultation and participation of communities affected in service delivery and conservation of water resources.

- **Governments, international community and the private sector held accountable to ensure access to water and sanitation**

One of the most significant obstacles to access to water and sanitation is lack of political will and corruption. National institutions, such as courts and human rights commissions, as well as human rights NGOs can monitor government programmes, so as to increase accountability. At the international level, UN human rights institutions monitor whether States have implemented their human rights commitments and publicly point out when they have failed to do so.

Source: 'Clean Water for the Poor: Making the Human Right to Water a Reality'
COHRE and German Federal Foreign Office, 2005

Different methods exist to assist in the implementation of the right to water:

- *Legislation and policy integration* through explicit reference in the Constitution or laws accompanied with national policies, plans and resources to enable local authority implementation.
- *Accountability mechanisms*: judicial action and other bodies, such as human rights commissions, water tribunals.
- *Community advocacy approach*: communities or social groups can mobilise and advocate for the right based on national laws (where applicable) and international agreements that support the right to water.

- *Community implementation approach*: communities and municipalities can within their area of jurisdiction establish the right to water through their actions and local regulations despite non-recognition at the national level.

The effective implementation of the right to water and sanitation may require all such actions.

The actions that governments should take to implement the right to water are described in some detail in Draft Guidelines on the Right to Drinking Water and Sanitation of the UN Sub-Commission on the Promotion and Protection of Human Rights. These draft Guidelines are not intended to set out a complete legal interpretation of the right to water. Instead, they highlight essential and urgent aspects of General Comment No. 15 as they apply to water and sanitation. They are formulated in a manner intended to assist policy makers from governments, international agencies and civil society working in the water and sanitation sector. The operative paragraphs of these Guidelines are reproduced in Annex II.

Case studies prepared as part of this initiative have shed light on what difficulties are encountered on ground and suggested lessons. The cases help identify key factors (political, economic, social, technological, environmental and cultural) critical for achieving effective implementation of the right to water. 💧

▶ The right to water can be implemented in various ways, which can all be effective if appropriate to the national and local context and actively involves all relevant stakeholders.

LEGISLATION AND POLICY APPROACH

A legislation and policy approach exists where, national policies, plans and resources are set up to enable local authorities to implement the right to water through explicit reference in the Constitution or laws.

South Africa is a relevant case to illustrate the implementation of the right to water through a legislation approach, because South Africa is one of the few countries in the world that formally recognise water as a human right in its Constitution. South African policy treats water provision for basic human needs as a right and the government has invested substantial resources in providing access to safe water and sanitation. Furthermore the South African Government has a programme that explicitly targets sanitation and which is internationally regarded as a model of good practice in sanitation provision (Stockholm Water Foundation, 2000).

The present water policy in South Africa focuses on improving access to basic water services for households in rural areas. This is a direct result of the rights enshrined in the Constitution under the Bill of Rights (1996), where section 27 states “everyone has a right to have access to sufficient food and water” ¹³. In the absence of any earlier coherent policy for water and sanitation services, the *White Paper on Water and Supply and Sanitation Policy* ¹⁴, outlines the policy with specific regard to water and sanitation services. It sets a “basic level of service” defined as 25 litres of water per capita per day and a maximum distance of 200 metres from any household to a safe water source. As a part of its strategy to alleviate poverty and improve public health, the South African government and the DWAF established a policy for the provision of “free basic water”, where every poor household ¹⁵ receives 6,000 litres of water per month free of charge ¹⁶. The target is for all people to have free basic water by 2008 ¹⁷.

Since 1994, four key policy documents with respect to water and sanitation have been produced: the *Water Services Act*, the *National Water Act*, the *White Paper on Basic Household Sanitation* and the *Draft White Paper on Water Services*.

These policies are in favour of a community-based development approach that ensures community ownership. Targets have been set in this framework, with deadlines for achieving them.

Source document	Target	Deadline	Current shortfall
White Paper on Water and Supply and Sanitation (1994)	Free safe water (25 L of free water per capita per day) to the poor	2008	34% of the population
	Maximum distance of 200 m from any household to a water source	2008	15% of the population
White Paper on Basic Household Sanitation (2001)	All South African have access to a basic minimum level of sanitation	2010	40% of the population
	All schools and clinics have adequate sanitation facilities	2010	12% of all schools (90% of rural and peri-urban schools) and 15% clinics

Source: E. Sinanovic et al. (2005) *Water Policy* 7

- ▶ The national government is primarily responsible for enabling implementation of the right to water through legislation, regulation, policies, work plans and associated budget allocations. The actual implementation is at local level where local governments and their service providers develop and extend services to the yet un-served.

¹³- South African Constitution (1996), Section 27.1 (b).

¹⁴- Department of Water Affairs and Forestry, 1994.

¹⁵- Poor households are defined as households with a monthly expenditure below US\$170 (DWAF, 2002).

¹⁶- DWAF, 2002.

¹⁷- DWAF, 2004.

Box 1: Legislative framework in South Africa recognising the right to water

The Water Services Act (1997) defines basic water supply as “the prescribed minimum standard of water supply services necessary for the reliable supply of a sufficient quantity and quality of water to households, including informal households, to support life and personal hygiene”.

The National Water Act (1998) recognises the DWAF minister as the custodian of all the water resources in the country. It recognised only one aspect of the right to water, the so-called Reserve set aside for essential human need (drinking, cooking, etc.) and ecological sustainability.

The White Paper on Basic Household Sanitation (2001) replaced the sanitation policies in 1994, addressing the problems of inadequate sanitation in mainly rural communities and informal settlements. According to the policy document, the minimum acceptable level of sanitation is to ensure (1) appropriate health and hygiene awareness and behaviour; (2) a system for disposing of human excreta, household waste water and refuse, which is acceptable and affordable for users; and (3) a toilet facility for each household. The White Paper on Basic Household Sanitation sets out 2010 as a target date for providing sanitation to all households in the country.

The Draft White Paper on Water Services (2002) complements the White Paper on Basic Household Sanitation and addresses the full spectrum of water and sanitation services. It is trying to consolidate the position of the DWAF and also clarifies the responsibilities of other departments and levels of government. It encourages the involvement of NGOs and the private sector in addressing sanitation problems.

The only reference to water quality is in the Strategic Framework for Water Services (DWAF, 2003), which emphasises that water supplied by water service providers must meet the minimum standards for potable water as defined in SABS (South African Bureau of Standards).

Source: E. Sinanovic et al. (2005) Water and Sanitation policies for improving health in South Africa : overcoming the institutional legacy of apartheid, Water Policy 7, 627-642

The roles and responsibilities of all the stakeholders are clearly set out in the policy, with the DWAF being the department for water and sanitation that oversees and co-ordinates the fulfilment of these roles and responsibilities.

Funding for water and sanitation services is allocated from the National Department of Finance (Treasury) to DWAF, which runs projects that directly provide water services to communities. In rural areas, the total cost of service provision is subsidised. Government expenditure increased by around 25% (in fixed prices) in 2004 owing to the refurbishment of water schemes which were transferred to local authorities and the acceleration of the delivery of sanitation and basic services¹⁸. However, this funding will decline and be replaced by consolidated funding channels to local government. International donors have played an important part in the development of the water services sector in South Africa. The estimates of donor funding as a percentage the total funding for water and sanitation in 2004/05 and 2005/06 are 16% and 11%, respectively. In summary, South African policy aims to provide reasonable levels of water access to assure the basic human needs are met.

What is the impact of the new water and sanitation policies?

According to government figures, since 1994, around ten million people have been provided with access to safe water supply at a basic level of service.

18- National Treasury, 2003.

Access to basic water services improved from 60% of the population in 1994 to 86% in 2004 ¹⁹. By late 2004, almost 31 million people (66% of the total population) were served by 'free basic water', of which almost 54% were poor households. However there are still an estimated five million people in rural areas who do not have access to safe water supplies.

While significant investment is being made in the provision of safe water supply, inadequate attention is being paid to sanitation as well as to health and hygiene promotion. It has been estimated that 37% households do not have access to adequate sanitation facilities – the majority of them being located in rural and urban informal settlements areas ²⁰. There has been a lack of integration of the policies aimed at water access, sanitation and health. However, a National Sanitation Programme was initiated in 1997 and more recently, the DWAF launched the Water, Sanitation and Hygiene for All (WASH) awareness campaign with the aim of increasing hygiene awareness and promoting hygienic sanitation practices. This campaign could provide the appropriate platform for such an integrated approach. An essential feature of sanitation programmes is that they are community based, with communities taking ownership of the systems and being responsible for their operation and maintenance. Community participation is identified as a key requirement for the success of the programmes. Local NGOs have completed 378 small rural water and sanitation projects, serving more than one million people ²¹. Between 1994 and 2002, nearly 90,000 toilets have been built and around 150,000 people have been reached through various health and hygiene programmes ²².

In Europe, there are also several examples like Belgium or Hungary (cf. Box 2) illustrating the effectiveness of including the HRTW in legislation when plans and strategies are adopted to implement it.

Box 2: Implementation of the right to water through regulation – Hungary

In Hungary, the right to water and sanitation is not expressly contained in the legislation. However, the Hungarian regulations specify that national water management has to be implemented in such a way that needs of the society are satisfied (Law LVII/1995). Additionally, the law stipulates that the government has to elaborate a National Environmental Plan, including separate programs to improve the quality of drinking water and to expand the sewerage networks and the sewage treatment. These programs are specified in government decrees and contain specific timelines. The implementation of the latter is supervised by the Ministry of Environment and Water through a system of indicators.

An important element of the human right to water and sanitation in Hungary constitutes the contractual relation between the households and the service company. The exact content of the contracts, the rights and responsibilities of both sides are specified by the 38/1995 Government Decree and the Law on Consumer Protection. The contractual relationship also specifies that the consumers (including the households) pay their water fees in accordance with their consumption.

The observance of the aforementioned rights and responsibilities is monitored by the Inspectorate of the Consumer Protection that conducted several general enquiries on the practice of the service providers based on the consumers' complaints. The State Auditory Authority examines the operation of the service companies and the owner municipalities from a financial point of view: how they set the fees, the cost-elements of the fees, the financial structure of the investments etc.

Source : E. Somogyi, Metropolitan Research Institute, In: Hoffmann S. «The Implementation of the Right to Water and Sanitation in Central and Eastern Europe», Solidarité Eau Europe, 2006

19- DWAF, 2004

20- DWAF, 2004

21- Mvula Trust, 2004.

22- DWAF, 2002.

In Latin America, Uruguay has the best drinking water²³ and sewage coverage and also became, in 2004, the first country in Latin America to enshrine the right to drinking water and sewage services in its constitution (cf. Box 3). During a referendum in October 2004, 64% of the Uruguyan people supported the Constitutional Reform which recognises access to drinking water and sanitation as a fundamental right.

Box 3: The right to water and sanitation a constitutional right in Uruguay

Section 47 of Uruguay's Constitution establishes:

"Section 47- The protection of the environment is a matter of general interest. People must abstain from any act which may cause severe depredation, destruction or pollution of the environment. The law shall regulate this provision and may provide punishments for the transgressors.

Water is an essential natural resource for life.

Access to water services and sanitation are essential human rights.

- 1- The national policy of Waters and Sanitation shall be based on:
 - a. The ordering of the territory, conservation and protection of the environment and the restoration of nature.
 - b. The sustainable management, sympathetic with future generations, of water resources and the preservation of the hydrological cycle, which are matters of general interest. The users and the civil society shall participate in every step concerning the planning, management and control of water resources, establishing the hydrographic basins as basic units.
 - c. The establishment of priorities for the use of water by regions, basins or parts of them, the first priority being the drinking-water supply to towns.
 - d. The principle which states that the water and sanitation services shall be supplied prioritizing the social welfare.

Any authorisation, concession or permission which in any way may damage the aforementioned provisions shall be deemed as unenforceable.

- 2- The surface waters, as well as the underground waters, except for the rain water, integrated in the hydrological cycle, are a unitary resource, subordinated to the general interest, which is a part of the state public domain, as hydraulic public domain.

- 3- The public service of sanitation and the public service of water supply for human consumption shall be provided exclusively and directly by state legal persons.

The law, by three fifths of the votes of the members of each chamber, may authorise the water supply to another country, in case that country is out of supplies and by reasons of solidarity."

Source: Constitución de la República – Constitución 1967 con las modificaciones plebiscitarias el 26 de noviembre del 1989, el 26 de noviembre del 1994, el 8 de diciembre del 1996 y el 31 de octubre del 2004

Due to the constitutional decision taken by plebiscite the state is implementing mechanisms to integrate the concessions, the services carried out by third parties, MEVIR (the Movement for the Eradication of the Unsanitary Rural Housing) and others, to the state sphere.

23- In 2004, the drinking water coverage is 97% for Montevideo's population and 86.8% for the upcountry. (Source: Blanco, A 'Historical Evolution and Current status of the availability, legislation and threats of water resources, drinking water and sanitation facilities in Uruguay', Green Cross International, 2006)

A change regarding the authorities related to water resources has also been proposed. The proposal includes the creation of a National Office of Water and Sanitation which would be answerable to the Ministry of housing, Territory Ordering and Environment, which conducts the execution of policies concerning drinking water and sanitation. In relation to the activities carried out by the Municipality of Montevideo²⁴, the sanitation plan step IV²⁵ is already designed to be developed between 2007 and 2010, with the construction of an interception pipe which will circle Montevideo bay and a sub-aquatic outfall in the western coast of the department²⁶. Even if Uruguay had a good drinking water and sewage coverage before, the adoption of the right to water in its Constitution has allowed deep reforms in the water management which made more effective the implementation of the right to water and sanitation. The mechanism of plebiscite included in the Constitution has allowed the society as a whole to express their desire to protect the water resources, to establish the right to water and sanitation to the whole population and to prioritise social aspect.

Box 4: Grouped Drinking Water Supply Programme for Rural Population in Morocco (PAGER)

The PAGER is a program launched by the High Water and Climate Council of Morocco in 1995 to implement the National Master Plan on water supply to rural areas. A database has been created with all the relevant information on the rural localities of the Kingdom, which number 40,000. In each province, the interventions are carried out on the basis of a multi-criteria analysis that integrates the population of the village, the distance between the source of water and the village, the vulnerability of the water resource to drought and risks from water borne diseases.

The supply of drinking water to the rural areas in Morocco was not well developed in comparison to the urban areas. The scattered settlements characteristic of the villages was a serious constraint to the development of networks of water distribution. Of the 12.6 million inhabitants of rural Morocco, less than 20% had access to safe drinking water with the situation was reaching critical levels during the drought. In 93% of the cases women and children were responsible for the transportation of water having to walk distances of over 10 kilometres to rivers and exposing themselves to water borne diseases such as bilharzia, diarrhoea and cholera and compromising their education.

The PAGER works on the basis that requests come from the rural population before any intervention is initiated. This approach has enhanced the participation of the local community in development of their surroundings and enhanced local ownership of the project. 80% of the total budget was provided by the State, 15% by the local community through their associations and 5% by beneficiary users. The PAGER provides training to some community members who are tasked with sensitising and involving the entire community. Women particularly have the role of reaching out to their peers in the community.

As a result of the initiative, more that 7,000 villages and close to 3.5 million residents have access to safe drinking water. A clear reduction of water borne disease incidences has been noted and women and children concerned with fetching water have been relieved of the chore. During the last period of drought, the impact on water supply was not felt with as much gravity as in the previous years. With the launching of the different projects each year, about ten small enterprises have been created and the population has received training on various aspects of the project such as civil engineering, pumping facilities and bore-holes.

Source: H. Zirari 'Développement local, genre et eau', ALMAE, 2006



24- The sanitation of the Capital city is supplied by the Municipality of Montevideo, which has jurisdiction in this matter as the Departmental Government.

25- Alsina J.R. (2004) Plan de Saneamiento Urbano de Montevideo - Taller Binacional: Gestión de la Contaminación – hacia una Estrategia Binacional para el Río de la Plata y el Frente Marítimo. Bs. As – Argentina.

26- Blanco, A 'Historical Evolution and Current status of the availability, legislation and threats of water resources, drinking water and sanitation facilities in Uruguay', Green Cross International, 2006.

► For effective implementation, the human right to water should be included in the national legislation but also in policies and action plans. However, the lack of explicit mention of the right to water in national laws should not be an excuse not to implement it.

In Africa, successful national programmes have also been carried out for water supply and sanitation. For instance, the Moroccan government launched in 1995 the National Program for Rural Water Supply and Sanitation (PAGER), through the construction and rehabilitation of water supply and sanitation facilities in rural provinces (cf. Box 4). Since January 2004, the National Drinking Water Office (ONEP) is the sole authority dealing with matters relating to the distribution of drinking water to rural populations in Morocco. The PAGER programme aims to develop water distribution systems suited to rural areas and which can be managed by the beneficiaries themselves. Particular attention has been given to Moroccan women, who generally are charged with the burdensome task of carrying water. Before PAGER, only 20 percent or 2.6 million, of Morocco's rural population had access to safe drinking water.

Today, more than 6.4 million, or over 50 percent, have clean water and adequate sanitation, an improvement that has dramatically diminished water-related diseases such as diarrhea. The participatory approach adopted by the PAGER programme in Morocco has resulted in a real commitment by the partners to the development of drinking water distribution projects and a genuine involvement by beneficiaries through various associations. A marked improvement in the lives of women was noticed. In the past four years, rural primary school attendance for girls has skyrocketed from 30 to 51 percent. A genuine dynamic has also been created in the villages with decentralised management of water distribution systems resulting from the participatory approach and the creation of users' associations. Water has thus become a catalyst, in social change and this dynamic encourages the people's involvement in other areas like a wider awareness of environmental protection, management of solid and liquid waste, the preservation of natural resources, soil protection, etc. 💧



ACCOUNTABILITY MECHANISMS APPROACH

The first contribution of the right to water is its legal nature. It can be a powerful political, advocacy and judicial tool when it is fully incorporated into national systems and programmes.

A number of court cases in many different regions of the world have shown the potent legal character of the right to water. Some judgments have protected residents from unreasonable disconnections or polluting activities. For instance, courts in Argentina, Brazil and South Africa reversed disconnections of water supplies (cf. Box 5). The Menores Comunidad Paynemil and Valentina Norte Colony cases from Argentina have required States to address pollution and disconnection of drinking water sources. Effective implementation of the right to water requires not only a functional judicial system, but also accessible information.

Box 5: BRAZIL – Case on disconnection

Bill of Review 0208625-3, Special Jurisdiction Appellate Court, Paraná, August 2002191

The water supply of a resident in Londrina, Paraná, was disconnected. An injunction to require reconnection while legal proceedings were in progress was denied by a lower court. On appeal, the highest court in the Brazilian state of Paraná determined that the water supply should be immediately re-established. The decision was based on the petitioner's constitutional rights, human rights and consumer rights. The Superior Court of Justice had previously stated that it is illegal to discontinue the supply of basic services, even in the event of payment default. It was held that the supplier must use other means to collect delayed payments. There was a risk that irreversible damage could result from discontinuance of the water supply.

The court took into consideration the vulnerability of one of the dwellers in the house, who was sick. They found that such considerations must prevail over the legality of the discontinuity of the water supply. Applying the Consumers Defence Code, Brazilian jurisprudence considers it illegal to interrupt the water supply even if the consumer defaults on payments. This Code forbids exposure of users to shameful situations. Damages were awarded on the basis that since a basic service must be continuously supplied, the consumer has the right to recovery.

Source: Legal resources for the right to water, COHRE, January 2004

The Grootboom case from South Africa addresses the obligations of States to progressively fulfil a socio-economic right. The court describes the manner in which a State's policies may be reviewed by a court on the basis of reasonableness, and stated that these obligations apply to all socio-economic rights, including water. In Grootboom, the Court focused on whether the State's housing policy made provision for persons whose housing needs were the most desperate.

The Indian Supreme Court case of *Municipal Council Ratlam vs. Vardhichand* (cf. Box 6) and others also addressed the obligations of States to ensure adequate sanitation facilities. The Supreme Court stated that a responsible municipal council constituted for the precise purpose of preserving public health cannot escape its principal duty by pleading lack of financial resources.

Box 6: INDIA – Case on accountability

Municipal Council Ratlam v. Vardhichand and others, AIR 1980 DC 1622194

The residents of a locality brought a case to require their municipality to construct drainpipes allowing the flow of water in order to address a sanitation problem caused by open sewers and public excretion (by nearby slum dwellers). The municipality pleaded lack of finances as the primary cause of its disability to discharge its duties.

The magistrate directed the municipality to draft a plan within six months for removing nuisance. The High Court approved the magistrate's order, after which the municipality further appealed to the Supreme Court. The issue was whether a court can compel a statutory body to carry out its duties to the community by constructing sanitation facilities. The Supreme Court upheld the order of the High Court and directed the municipality to take immediate action within its statutory powers to construct sufficient number of public latrines, provide water supply and scavenging services, to construct drains, cesspools and to provide basic amenities to the public.

The court also held that budgetary constraints did not absolve a municipality from performing its statutory obligations to provide sanitation facilities.

Source: Legal Resources for the right to water, COHRE, January 2004



Further, the legal nature of the right to water can help ensure its fulfilment. For example, the implementation of unfinished or unfunded water and sanitation projects – as has been shown in India. In the same way, in a court action (cf. Box 7) successfully filed by the Center for Human Rights and Environment in Argentina (CEDHA), the judge ruled that the provincial state was responsible for violations of the rights to a healthy environment, to an adequate standard of living, to health, and to safe drinking water. In the end, this court's statement has driven the municipality to set a plan for the rehabilitation of the sewage infrastructure.

However, the right to water is not recognised as a legal right everywhere and it requires much strengthening at the national level. Many individuals and communities are unaware that they have rights that they can exercise and demand. Access to water is one of those rights that remain elusive to most poor communities. The State must ensure the protection of this right, in the same way it does in relation to the rights to education and health, for example. Moreover, thinking of water as a right is not always clearly understood or conceptualised by even legal actors, especially given the diverse interests at stake and the juxtaposed understanding that the right generates rights of exploitation of the resource in an economic sense. Therefore, for effective enforceability, people have to be informed about their rights, access to justice needs to be improved to guarantee equality and non-discrimination, and advocates have to be appropriately trained on the right to water. 💧

Box 7: ARGENTINA – Water provided to claimants and public water services extended to outlying poor communities

CEDHA v. Municipality and Province of Cordoba in Argentina – October 2004

In the city of Córdoba, Argentina, several outlying poor neighbourhoods suffered for years from the lack of access to the public water distribution network and from severe contamination of their local water sources. One of the reasons for the contamination was the public sewage treatment facility which lacked maintenance and capacity and therefore caused daily spillage of untreated sewage.

Since the Argentine Constitution guarantees the right to a healthy environment and incorporates several international human rights instruments, like the ICESCR, the CEDHA, jointly with four community members, filed an action against the municipality and the Province of Córdoba. In the ruling, the municipality was ordered to ensure the proper functioning of the treatment facility and the province to provide 200 daily litres of drinking water to the four claimants until their access to the public water service was realised.

In December 2004, the Province of Córdoba started public works directed at providing fresh and safe water for the affected communities. The Municipality has presented a plan for the rehabilitation of the sewage infrastructure. Furthermore, the Municipality Congress has passed a law which is to ensure that unlike before all revenue from sewage and sanitation taxes is invested exclusively in the sewage system.

Source: 'Identifying and addressing violations of the Human Right to Water', FIAN International, and Bread for the World



COMMUNITY ADVOCACY APPROACH

The community advocacy approach defines an action where communities or social groups, through court action, obtain rulings based on existing laws and international treaties that support the right to water.

Advancing the right to water also requires that people deprived of access are able to mobilize and lobby for their right. Two examples illustrate potential benefits: in Buenos Aires, a low-income community assisted by the Centre for Legal and Social Studies (CELS) and COHRE was added to plans for an extension of the piped water network. In Kathmandu, Nepal, a community of slum dwellers, assisted by WaterAid, approached the local council with a copy of General Comment No.15 and was granted six water standpipes.²⁷

In Argentina, a COHRE²⁸ and CELS²⁹ project (launched in 2004, cf. Box 8) has enabled two local communities in the outskirts of Buenos Aires to:

- *Strengthen their capacity* to engage in advocacy for access to water,
- *Understand their entitlements and responsibilities* regarding access to water and monitor the performance of governments and private companies in progressively realising their rights to water and sanitation services,
- *Develop strategies* to improve their situation, which might include participation in the decision-making processes and negotiations with local authorities and private water companies to ensure that water policies and programmes take into account their rights in accordance with human rights and Argentinean law,
- *Participate* in the current political processes at the national level concerning the renegotiation of the concession contracts of private water companies with the aim of ensuring that the revised terms of the agreements are consistent with community needs and realities,
- *Establish networks* with other communities and organisations to increase their influence in political process and to demonstrate to other communities the value of a rights-based approach for improving the performance of public services,
- *Secure better access to legal and technical services*, through legal training, workshops, sharing experiences of other settlements. Communities have now developed concrete plans to secure access to water services and obtained visibility and government recognition. 💧

²⁷- Information provided by WaterAid.

²⁸- Centre on Housing Rights and evictions, an international NGO.

²⁹- El Centro de Estudios Legales y Sociales, an Argentinean NGO.

Box 8: Community empowerment in Buenos Aires

COHRE and CELS led a project in two communities on the outskirts of Buenos Aires, in Argentina. The La Cava and Conet communities were selected for the project because they were sufficiently organised to be able to take action to secure their right to water and because they asked for forms of legal and policy assistance.

In the first phase (July-December 2004), community representatives from the La Cava and Conet neighbourhoods were informed about their rights (contained in the National Constitution, in the Constitution of the Province of Buenos Aires and in General Comment No.15) and opportunities and from this, formulated strategies to realise access to water. With the assistance of the project team, the community representatives started negotiations with the local, provincial and national authorities to require improvements to their access to water, and to develop links with other NGOs that could provide technical and scientific assistance to bolster the legal and political strategies. This was achieved through the organisation of meetings, workshops and the writing of research action reports.

In the second phase (January-June 2005), training workshops were organised in Conet and La Cava. All these actions resulted in a strengthened capacity of the communities to engage in advocacy for access to water. The La Cava and Conet communities are now better organised and have developed concrete plans to secure access to water services. Government officials and Aguas Argentinas are now fully apprised of the existence of the La Cava and Conet communities and of their needs. Due to pressure from the community and with the assistance of the project team, La Cava was included in the Federal Plan on Housing in the area, in spite of the opposition of the municipality and its preference for re-settling the community outside the municipality. Conet has been added to official plans to extend the water network. The research action reports are now useful tools for other actors, and a report will be disseminated at the 4th World Water Forum.





COMMUNITY IMPLEMENTATION APPROACH

Communities and municipalities can within their area of jurisdiction implement the right to water through their actions and local regulations irrespective whether there is recognition of the right at national level.

Examples of this approach are found in many countries, for example in Burkina Faso and Niger³⁰. This approach must be considered as one of many steps to a full implementation of the right to water and sanitation. Communities should not be expected to fill the role of local governments, although they have an important part to play in the delivery of services. 💧



30- Case studies were not available at the time the report was prepared. But some of them will be presented during the 4th World Water Forum, Mexico.



COMMUNITY PARTICIPATION

Participation in decision-making, especially for key stakeholders, is crucial to achieve sustainable development and to anticipate eventual problems of failure to consult stakeholders on risky environmental policy decisions.

Most of the case studies presented here demonstrate that community participation is a prerequisite for successful implementation of the right to water. It is important that the community can decide itself, involving stakeholders group in this decision-making process in order to promote community self-management and to support local actions. Access to information must be guaranteed and community participation in decision-making must be fostered, in particular that of the poorest and marginalised population (cf. Box 9).

Box 9: On the need to involve the marginalised population ROMA case

With estimates ranging from seven to ten million members, the Roma are the most numerous minority in Europe. Data suggests wide disparities between the Roma and the majority population with regard to water and sanitation. The most striking example of this is the frequent sight of a water pipe ending where the majority neighbourhood ends and the Romani settlement starts. In many cases, residents in Romani communities have to rely on wells, nearby rivers or water tanks. The water quality of such sources varies greatly. In some cases, Roma communities live in extremely unsafe environments, such as in the proximity of mining complexes or municipal garbage dumps, where the water may be contaminated. In the fortunate case in which the Romani settlements are covered by water and sanitation networks, the system tends to be in a poor state of disrepair. In many cases, the Roma are facing problems of affordability that sometimes result in mass disconnections or even forced evictions.

The existing national and international strategies aimed at tackling Roma poverty, including by improving infrastructure in Roma communities, have failed so far to bring any significant results. National water management strategies are stuck in the past, and refuse to acknowledge the existence of disparities along ethnic lines. Although examples of good practices with regard to water and sanitation in Roma settlements may be cited, these are too few and far between.

Some of the difficulties faced by the Roma may be explained because of the difficult economic situation prevalent in Central and Eastern Europe. However, persistent discrimination and exclusion lie at the origin of the many deprivations faced by the Roma, of which water is but another example. Accordingly, any strategy addressing access to water and sanitation in Roma communities needs to include strong participation as well as anti-discrimination components. Full participation of Roma is essential to insuring that any policies reflect the needs of the Roma and are effective. This involves working in partnerships with local Roma and non-Roma communities, NGOs, and public institutions at all stages of design, implementation and monitoring of programmes.

Source : C. Cojocariu, European Roma Rights Centre (ERRC), In: Hoffmann S. «The Implementation of the Right to Water and Sanitation in Central and Eastern Europe», Solidarité Eau Europe, 2006.

► For the successful implementation of the right to water, local initiatives and community's participation should be fostered. It is necessary to raise awareness about the existence of the human right to water, particularly amongst poor and marginalised people.

Traditionally, people, particularly the poor, have not been included in assessing their own needs, although they frequently represent a large proportion of the urban population. This has often led to the construction of facilities that they do not need, do not use properly, do not care for and to which they are not ready to contribute. However, if communities are involved in making decisions around the levels and costs of services, and given the opportunity to improve their situation, they will be willing to participate in construction, with perhaps the local authority providing material and guidance that they cannot provide for themselves. Following this process, there is more chance that people will be willing and able to pay for the services they are benefiting from. The case of community toilets in Pune and other Indian cities presented in the UN-HABITAT publication *Water and Sanitation in the World's Cities: Local Action for Global Goals*, provides an excellent illustration of the advantage of involving the poor (cf. Box 10).

Box 10: Municipality – community partnership, India

In Pune, a partnership between the municipal corporation, NGOs and CBOs has built more than 400 community toilet blocks. These have greatly improved sanitation for more than half a million people. They have also demonstrated the potential for municipal –community partnerships to improve conditions for low-income groups, and similar programmes are now being developed in other cities.

Pune has 2.8 million inhabitants, two-fifths of whom live in slums (there are over 500 in the city). Various local government bodies are meant to provide and maintain public toilets in these settlements, but provision is far below what is needed. In addition, in those settlements in which toilet blocks were built, there was no consultation with the inhabitants regarding the location, design and construction, and the agencies responsible for construction and maintenance had little accountability to the communities.

In 1999, Pune's municipal commissioner, Ratnakar Gaikwad, sought to greatly increase the scale of public toilet construction and ensure that more appropriate toilets got built by inviting NGOs to make bids for toilet construction. The new programme planned to build 220 blocks during 1999–2000 and another 220 during 2000–2001. The contracts were not only for building toilets but also for maintenance. One of the NGOs that received contracts, SPARC, had a partnership with two people's organizations, the National Slum Dwellers' Federation and Mahila Milan (a network of slum and pavement women's savings and credit groups). The three institutions had been working in Pune for five years prior to this, supporting a vibrant savings and credit movement among women slum dwellers. Now this alliance became one of the principal contractors and constructed 114 toilets. The alliance designed and costed the project, the city provided the capital costs and the communities developed the capacity for management and maintenance. In many places, the inhabitants were involved in the design and construction of these toilets. Some women community leaders took on contracts themselves and managed the whole construction process, supported by engineers and architects from SPARC. The design of the toilet blocks introduced several innovations.

This programme was also unique because of its transparency and accountability. There was constant communication between senior government officials and community leaders. Weekly meetings brought all stakeholders together to review progress and identify problems that needed to be addressed. And all aspects of costing and financing were publicly available.

Source: UN-HABITAT, 'Water and Sanitation in the World's Cities: Local Action for Global Goals'

Participatory approaches foster a sense of ownership and enhance accountability and transparency in service delivery. Such processes help invest the micro-resources of individuals and the social capital of communities. It could be recommended to

convert informal assets of the poor and of communities into clear property. To involve people, particularly the poor, it is essential to put in place appropriate laws and regulations as well as participatory processes and structures, complemented by capacity building initiatives aimed at offsetting the inhibitions of those social groups that have long been excluded and the distortions in power relations that exist at both the local and national levels.

Access to information and public participation is a right in itself, as well as having important developmental benefits. There are a number of good examples demonstrating where this has been applied.

In the municipality of Porto Alegre, Brazil, the public water company's operations undergo an annual participatory budgeting process. In public meetings, every citizen can have a say on which new investments should be made first. This model has contributed to dramatic increases in access to water by poor communities in Porto Alegre³¹. The South African Water Services Act³² also provides for public consultations on water development plans and requires the Minister to establish a national information system on water services that provides information in an accessible format.

The case of Ukraine also illustrates the benefits of community participation even in the elaboration of a law affecting their right to water and sanitation (cf. Box 11).

Box 11: Public participation in Law – Ukraine

Within the scope of water sector reforms, in 1999, the Ukrainian Government initiated a Law Draft Process on Drinking Water and Drinking Water Supply. From the very beginning, the NGO Mama-86 participated in this process, organising public consultations on the Draft Law in different regions of Ukraine. The consultations resulted in 155 amendments, which were delivered to and discussed with the authorities responsible for the Draft Law – the Parliament Committee on Environmental Policy. Thanks to the participation of the NGO in the Draft Process, a third part of the amendments were incorporated in the Law, which was finally passed in 2002. These amendments include the right of individuals and groups to participate in decision-making that may affect their exercise of the right to water and sanitation.

Again, in 2004, the NGO Mama-86, together with Ukraine Water Association (UWA), organised public consultations on the Draft of State Program, Drinking water of Ukraine (2006-2020), which resulted in 110 amendments on the Draft. Half of the amendments were incorporated in the State Program, adopted in 2005, including special provisions to address the needs of the vulnerable and marginalised individuals and groups concerning water and sanitation.

The participation of the NGO Mama-86 and the Ukraine Water Association (UWA) in the formulation of the Law and the State Program is an example of the implementation of the Aarhus Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters ratified by Ukraine in 1999.

Source: A. Tsvetkova, NGO Mama-86, In: Hoffmann S., The Implementation of the Right to Water and Sanitation in Central and Eastern Europe, Solidarité Eau Europe, 2006

Communities and individuals must have access to information and be able to participate in decisions on water that affect them, such as on the type of services that they receive. The legislative framework should include the promotion of public participation in decision-making. 💧

31- Maltz, H.P. "Alegre's Water: Public and For All" in Balanya, B. et al. , Reclaiming Public Water eds., Transnational Institute & Corporate Europe Observatory, 2005.

32- Water Services Act, Act 108 of 1997, ss. 14-15 & 67.



SOLIDARITY



► Meeting the costs associated with implementation of the right to water requires solidarity between citizens, cities and regions to make access to water and sanitation services affordable to all people, especially the poorest. This solidarity must be institutionalised.

Solidarity for drinking water is implemented in many countries; it entails limited expenditure and makes it possible to improve access to water supply and sanitation for vulnerable groups. The different mechanisms of solidarity between citizens and users, both at national and international level, must be more widely used to increase financial transfers so that water becomes available to all and so that everyone can afford it. Each person should watch over the setting up and financing of the institutions intended to respond to these calls for solidarity.

In Hungary, for example, different measures have been adopted and included in the Hungarian regulation to facilitate access to water and sanitation for the low-income households (cf. Box 12).

Box 12: Hungary – Solidarity for the low-income households

Hungarian regulations include the definition of a basic minimum amount of water for personnel use related to the limitation of water supply (38/1995 Government Decree). Limitation can occur for different reasons; when it occurs because of the non-payment of water fees by domestic users, the regulation specifies the basic minimum amount in 50 liter per capita per day. In case households are disconnected, the service provider has to ensure water supply in less than 150 meter, by installing public taps. If the limitation occurs only temporary for technical reasons and it affects more than 500 people longer than one day then the minimum amount is 30 liter per capita per day that has to be provided.

In order to ease affordability problems of low-income households, at different levels, various forms of social assistance are provided: (1) central subsidy to fees of those water and sewage companies that have high production costs, (2) central and local housing allowance programs to support low-income households to cover their housing related costs, and (3) central and local arrears management program to assist low-income households to pay out their arrears with housing expenditure

In addition, at the local level, some water and sewage services companies, such as the company Nyírségvíz Co., established special programs to assist low-income households. The latter company that operates in the city of Nyíregyháza and 37 neighbouring settlements, introduced in 2003 a program to support those households, covering the so-called basic (constant) element of the two-factor fee. Additionally, the municipality of Nyíregyháza introduced in the early nineties a subsidy program to support low-income households to install submeters, recognizing the importance of submetering in relation to efficient water use and affordability. The subsidy program allowed that, by the end of the nineties, practically all housing units were individually metered.

Source: E. Somogyi, Metropolitan Research Institute, In: Hoffmann S. «The Implementation of the Right to Water and Sanitation in Central and Eastern Europe», Solidarité Eau Europe, 2006

The most common form of solidarity at user level is based on progressive pricing (cf. Box 13). This consists of supplying a first consumption bracket at a reduced price. The price per volume then increases progressively with consumption. This method enables low consumption users to be helped in a targeted way. It is a method that is frequently used to favour access to water by the most deprived people. In many developing countries, this pricing approach is reinforced by the application of a higher water price for industry. These two methods are simple to implement but involve heavy charges for some users and this approach only benefits those who have a connection to the water supply.

Box 13: Progressive pricing

Progressive pricing consists as a minimum in providing a first block of water consumption at a lower price than other blocks so as to facilitate access to water to small users. It is of little use to large families who consume more water than the first block. For instance in Lisbon, the price of the first block (5 m³ per month) is four times lower than that of the second block. Progressive pricing is financed by cross-subsidies from large users and thus helps to discourage excessive water consumption. It is used in many countries, for example South Africa, Algeria, Belgium, Burkina Faso, Bolivia, United States or Mexico. In South Africa the first block is free. Water at public standpipes is either free or at a very low price. If the tariff takes into account family size or level of income, it is called a 'social' tariff.

Source : H. Smets, La solidarité pour l'eau potable : aspects économiques, 2004

In order to ensure that this method is more equitable, the size of the user's household should be taken into account or suitable corrective measures should be implemented for this purpose. However, this would involve administrative costs and an intervention by the public authorities in order to better target and modulate the pricing mechanism.

Some developed countries developed innovative "social" tariff structure, which contribute to environmental and economic goals at the same time, in response to concerns about the affordability of household water services. One interesting experiment with tariff-based solutions to affordability problems comes from the Flanders region of Belgium. Since 1997, the first 15m³ per annum per person in each household is provided free of charge. Since most other "free minima" are based on the household as a unit (i.e. regardless of the number of people), this innovation may offer a more equitable approach over the long-term. Recently, the Walloon Region of Belgium also set up a new water tariff, including a social fund to help the underprivileged private consumers having problems to pay their bill and who cannot assume the cost of the drinking water. A part of the water bill of that target population is paid by the Social Fund (cf. Box 14).

In most intermediate income countries, water accounts for a larger part of the household income than in industrialised countries, despite the fact that it is heavily subsidised. In numerous countries in transition, social aid contributes substantial support for the poorest people, enabling them to limit their expenses in respect of water and other essential goods such as housing, heating or electricity to a smaller fraction of their income.

Box 14: Brussels adopts a new water tariff structure to enhance solidarity

Brussels water legislation guarantees to each person “the right to water supply for its own domestic use” (1994). In order to make water more affordable to the poor, the tariff structure was changed by setting a lower price for the supply of 15 m³ of water per person in each household (this unique method was previously used in Flanders) and by introducing a higher unit price for large water consumption (progressive tariff). Specifically the unit price for the first cubic meters of water is 3.8 times lower than the normal price. In addition each user has to pay a solidarity tax on water (1 c€/m³) in a social fund which helps to pay water arrears of poor people. No water cut is made before informing social services and obtaining a positive decision from a judge. Brussels new water tariff (2005) is fully in line with the right to water.

Source: H. Smets, Le droit à l'eau dans les législations nationales, 2005

Box 15: Columbia subsidies

In Columbia, cross subsidies are explicitly enshrined in the Public Residential Services Law of 1994. A geographic targeting system is used to determine whether a user should pay a surplus or receives a benefit from the tariff structure. Surcharge can be applied to users in higher-cost dwellings and to industrial and commercial customers. Subsidies based on socio-economic criteria cover almost all people in the poorest 20%.

Source: A.Gomez-Lobo and D. Contreras, University of Chile, 2003

In most developing countries drinking water subsidies are a benefit that is highly appreciated by the poorest households connected to the distribution networks. However, this aid does not apply to the populations that do not have access to the distribution networks and who therefore have to satisfy their water needs at high prices from alternative providers, such as street vendors or tanks (suburbs and rural areas). The question is, therefore, whether water subsidies really benefit the poor (cf. Box 16).

In South Asian countries, large scale subsidisation for the water sector is typical, for example, the federal and state governments of India spend an estimated US\$ 1.1 billion³³ per year on subsidising the water sector. But the tariff structures typically used in the water sector in South Asia do not discriminate between rich and poor, which means that everyone benefits from the general subsidy for water consumption. Furthermore, a high proportion³⁴ of poor people in South Asia do not have private connections; as a result they are unable to benefit from the heavy subsidisation of this service.

Other examples in Senegal and Cote d'Ivoire show that the poorest households are not being served by social water connections because they are located in informal settlements and are not eligible. It is not surprising, therefore that it has been found that subsidising connections is probably more progressive and costs less than subsidizing consumption³⁵, even though it is still not a perfect approach to targeting the poor. The evidence from Côte d'Ivoire and Senegal is that if connections are subsidised, the users will often be willing and able to pay for their consumption.

33- It's accounting for around 4% of all government subsidies in India and amounting to 0.5% of Gross Domestic Product.

34- 60% in India

35- A consumption-based subsidy requires that each household have a meter.

Box 16: The need to re-target water subsidies to the poor? Case of India

In the cities of Bangalore and Kathmandu, barely a quarter of the subsidies provided by State governments and distributed by water utilities end up benefiting the poor. Around 90 to 95% of these resources are used to keep tariffs faced by households with private taps low, with each of these households receiving an implicit subsidy of US\$ 10 to 15 per month. However since 70% of those with private taps live above the poverty line, around 70 to 80% of these resources fail to reach the poor.

These are two underlying reasons for this. First, barely half of the poor have private taps; hence most are excluded altogether from this type of subsidy. Second the Increasing Block Tariff structure used in both cities tends to skew subsidies towards small-volume consumers, on the assumption that they are more likely to be the poor. However, the evidence suggests that the difference is not so large. The remaining 5 to 10% of subsidy resources are used to finance free public taps in poor neighbourhoods. Due to the low volumes of water delivered by the public tap network, the implicit subsidy receives by each household is no more than US\$ 1 to 4 per month. In Bangalore, public taps manage to reach the vast majority of the unconnected poor, but this is not the case in Kathmandu, where most of the unconnected poor are still forced to rely on traditional sources of water.

Although the distributional performance of water subsidies in the two cities is not good, they are nonetheless more equitably distributed than income and hence make some small contribution to reducing inequality. Notwithstanding this, the substantial leakage of resources away from the intended beneficiaries raises the question of whether a more sophisticated approach to targeting would prove any more effective.

Source: Water tariffs and subsidies in South Asia, PPIAF and Water and Sanitation Program, 2003.

A well-designed subsidy needs to meet four criteria:

- It must respond to genuine need;
- It should serve the poorest and use a good targeting mechanism;
- It should have low administrative costs;
- It should avoid perverse incentives (e.g. negative spillovers from wastewater, or the costs of subsidising water connections may be borne by some households that are poorer than the recipients).

The Chilean and Colombian experiences are often touted as examples of best-practice in the design of subsidy schemes in infrastructures services. They constitute two of the few examples available in developing countries of formal targeted subsidies for utility services. The subsidy program has national coverage, benefits customers from different regional operators and is grounded in an explicit legal and regulatory framework. The Chilean and Colombian schemes use different targeting mechanisms. In Chile, individual means-testing of households is used to determine eligibility, while in Colombia a geographical targeting system is used. These two targeting schemes lead to comparable results in terms of poverty incidence. However, the Colombian scheme provides benefit to almost all poor households but at a high fiscal cost given that the program gives some benefit to almost all households in the country. In Chile on the other hand, the program is much smaller and targeted to a narrower group of households.



Box 17: Output-based consumption subsidies in Chile

The water consumption subsidy in Chile is one of the few individual means tested subsidies applied in the utility industry of a developing country. The water subsidy scheme, which became operational in 1990, was designed to concern the adverse social impacts resulting from water charges.

The subsidy program is administered by the Ministry of Social Planning together with municipalities. This subsidy program relies on the water companies to deliver the service. The government reimburses them for the subsidies on the basis of actual amount of water consumed by each beneficiary rather than a preestablished amount, a method used in some countries. By law, the subsidy can cover 25-85% of a household's water and sewerage bill for up to 15 cubic meters a month, with the client paying the rest. All consumption above the limit is charged at the full tariff. In essence, the Chilean water subsidy can be thought of as a rising block tariff where only means-tested households have access to the lower priced initial consumption block. The subsidy is based on the willingness to pay for water services among low-income households. Only households that would be unable to purchase what is considered to be a subsistence level of consumption should benefit. And the subsidy should cover only the shortfall between actual charges and willingness to pay (i.e. more than 5% of its monthly income). Another incentive-based feature of the scheme rest on the relationship between the government and the service provider, which is mediated by the subsidy law and its accompanying regulations.

Source: Gomez-Lobo, A. «Making Water Affordable: Output-based Consumption Subsidies in Chile.»

But, as a result of targeting errors, many deserving households do not receive this benefit. In Chile, the introduction of the subsidy (cf. Box 17) has been key for its ability to raise water tariffs to levels reflecting costs without compromising its social and distributional goals. The costs to the government of doing so have been low. Despite the success of the subsidy program, several issues need to be considered if such a scheme is to be replicated in other countries. Firstly, metering is a prerequisite for this type of output-based consumption subsidy. Secondly, the means-tested targeting used in Chile requires a certain amount of institutional capacity, especially at the municipal level. Thirdly, an individual means-tested subsidy may be expensive to apply. Fourthly, there must be universal connection to the water supply, which is the case in Chile, and a reason why it has a chance of reaching the people it targets.

Water solidarity between the rich and the poor is put into practice by pricing methods in several Arab countries, in Vietnam, in South Africa and in Latin America (Colombia). To improve access to water in the newly supplied suburbs, it is advisable to subsidise part of individual connection costs, which are high in comparison with the income of the people to be supplied. The example of Buenos Aires shows that, in certain conditions, it has been possible to extend the networks without public aid by applying a solidarity charge.

Tariff structures with cross subsidies are also ubiquitous in water tariffs across the world. Cross subsidies favour the extension of access to water, which involves reducing subsidies to the existing networks and increasing the price of drinking water without the poorer members of society having to bear too high a financial burden. Colombia has opted for a system based on cross subsidies between different clients, although in practice benefits are mostly funded from general tax revenues³⁶. What makes the Colombian system interesting is that the cross subsidies are explicitly enshrined in the Public Residential Services Law of 1994 and a geographic targeting system is used to determine whether a client should pay a surplus or receive a benefit from the tariff structure (cf. Box 18).

36- Cross subsidies are defined here as a system whereby some clients pay a tariff superior to the cost they impose on the service provider in order to finance tariffs lower than costs for other clients.

Box 18: The Colombian water subsidy scheme

Cross subsidies are explicit enshrined in the Public Residential Services Law of 1994, and a geographic targeting system is used to determine whether a client should pay a surplus or receive a benefit from the tariff structure. The objective of the 1994 reform was to unify criteria for the application of cross subsidies across utility industries and to guarantee a consistent application of the scheme across the country. In each municipality, dwellings are classified into six socio-economic categories. Those classified as level 1 (low-low) and 2 (low), in urban and rural zones, are eligible to receive a subsidy for up to 50% and 40% of the average service cost, respectively. Those households living in level 3 dwellings (medium-low) may also receive a subsidy for up to 15% of the average service cost. However, it is up to regulatory commission to determine in each case whether to grant a subsidy to this middle income group. Subsidies are funded through a variety of sources. First, a surcharge can be applied to clients in dwellings classified as 5 or 6, and to industrial and commercial customers. These surcharges are capped to a maximum of 20% of the water and sewage bill.

With this subsidy scheme, most poor households receive some benefit (close to 95% of households received some amount of subsidy). The downside of this situation is that the program is extremely expensive from a fiscal perspective since the errors of inclusion are quite large. A better targeting mechanism would lower these cost without necessarily endangering the protection accorded to lower income households.

Source: Gomez-Lobo, A. «Making Water Affordable: Output-based Consumption Subsidies in Chile.»

Countries with low income and rural areas have the greatest needs in terms of water supply and sanitation but they lack sufficient financial resources required to carry out such programmes. Thus it is often necessary to apply for external aid to support the actions undertaken locally. Pricing approaches are of less interest here than the reinforcement of social cohesion. Non-governmental organisations can play a very important part in promoting the most suitable solutions, both on technical and social grounds. Cheap, but appropriate, technologies should be implemented with the active support of the communities that are directly affected. A particular effort should be made for water to be supplied to all settlements, via standpipes or other techniques used by the local community. Internal solidarity is of little use if putting it into practice is judged to be too costly for the people who have to bear the cost. Unless it is possible to transfer a substantial part of the total cost of water, internal solidarity will not be capable of solving the water related problems that exist in countries in which the majority of the population is poor.

Only strengthening of international solidarity will bring about an improvement in access to drinking water in countries in which it is most deficient. Innovative mechanisms for financing international aid for water should be developed so that the most deprived people have access to drinking water and benefit from a real improvement to their standards of living. 💧

▶ Only strengthening of international solidarity will bring about an improvement in access to drinking water in countries in which it is most deficient.



MONITORING

The process of monitoring can help at all stages of the implementation of the right to water, and there's an increasing request from local actors for this.

Under the term “monitoring”, three main issues and activities can be distinguished, which are generally implemented in a sequential way:

1. *Target setting* is the process through which objectives and targets are agreed upon. It should encompass all process of orienting political choices, setting achievable targets, defining policies and establishing sets of tools and clearly identifiable indicators to monitor progress toward these targets,
2. *Observing and measuring* are the procedures enabling the collection and the analysis of data and,
3. *Assessing and reporting* correspond to the activities of implementation / progress assessment based on the analysis of the observations and information circulation to decision-makers and others stakeholders including the public.

National governments have to define clearly their objectives in terms of access to water and sanitation, and develop action plans to meet them. In a second step, the use of indicators is required to identify gaps in implementation and to help prioritise the use of scarce resources, which allow for monitoring of the actions of States and other actors. General Comment No.15 calls for States to use indicators to monitor the right to water (cf. Box 19). In the case of human rights monitoring, indicators are a way of measuring a State's implementation of its obligations required by the right to water, using data from questionnaires, surveys or censuses. Such indicators can be managed directly by the State or by regional or local governments, or by an external body, e.g. international or local NGOs or UN organisations. A State has the responsibility to individuals and groups under its jurisdiction to ensure that it is monitoring the realisation of their rights. At the international level, the UN Committee on Economic, Social and Cultural Rights carries out international monitoring of economic, social and cultural rights, including the right to water.

Box 19: UN Committee on Economic, Social and Cultural Rights and Indicators for the Right to Water

To assist the monitoring process, right to water indicators should be identified in the national water strategies or plans of action. The indicators should be designed to monitor, at the national and international levels, the State party's obligations under articles 11, paragraph 1 [right to adequate standard of living, including water], and 12 [right to health]. Indicators should address the different components of adequate water (such as sufficiency, safety and acceptability, affordability and physical accessibility), be disaggregated by the prohibited grounds of discrimination, and cover all persons residing in the State party's territorial jurisdiction or under their control....

General Comment No. 15 on Right to Water (para. 53)

A paper from Roaf et al.³⁷, based on a two-day expert workshop, set out a framework and methodology for designing indicators for the right to water. These indicators have been organised around six themes: General Indicators, Availability, Physical accessibility, Quality, Affordability, Sanitation and Vulnerable and Marginalised groups. Quantitative indicators for water and sanitation are currently being used internationally, but in general, they focus on quality, quantity and availability of water and sanitation supplies. There is little monitoring of affordability, access by marginalised and vulnerable groups or the quality or existence of broader legal and institutional frameworks or adequate budgetary support. This gap makes it difficult to track progress towards the realisation of the right to water³⁸.

Concerning the monitoring issue of observing and measuring, there are numerous surveys which collect data on the delivery of water and sanitation³⁹. Efforts to monitor the right to water should not rely on internationally developed indicators alone. National level indicators, collected by the State or an independent national organisation are necessary in order to address a wider range of issues. Sample surveys, which many of the existing international monitoring processes rely on, can have the drawback in that they do not provide sufficient information on disaggregation, since the sample size of a particular group (such as an ethnic minority) within the sample is normally too small to make proper generalisations. Country data, for example from a census, can give a more accurate picture of this issue. States also need to formulate more detailed indicators, beyond the small number of indicators used at the international level, in order to guide policy development and implementation⁴⁰.

International and local development NGOs also carry out surveys in order to assess where they should focus their efforts. Local communities carry out surveys for mobilisation or lobbying purposes, in order to represent their needs to the appropriate authorities, or simply to gather information for themselves, in order to implement development projects. The problem is that States, international organisations or community groups are often looking for information in very different ways and often for different purposes, so few surveys are comparable or compatible. While it could be advantageous to harmonise indicators in order to limit money and effort currently spent by a number of organisations carrying out surveys, a standardised survey may have limitations for real community participation in monitoring process. The most advanced harmonisation process to date is that of WHO and UNICEF, who in their Joint Monitoring Program, have identified some of the most significant indicators for water and sanitation.

Lastly, if processes of *target setting* and *observing* can be realised at international, local and community level, field experience shows that the monitoring process is more effective if the third step of *assessing and reporting* be from the responsibility of an international organisation, although communities can often be key in this process.

The more effective and widespread use of rights-based indicators would lead to greater clarity in implementing the right to water and stimulate greater efforts to ensure the right to water for all. 💧

37- Roaf, V., A. Khalfan, M. Langford « Monitoring implementation of the Right to Water : a framework for developing indicators » Heinrich Böll Stiftung, Berlin 2005.

38- Ibid.

39- E.g. Demographic and Health Surveys (DHS) from the US Agency for International Development, UNICEF's Multiple Cluster Indicator Surveys (MICS), WHO's World Health Survey (WHS), Living Standards Measurement Study (LSMS) developed by the World Bank, Urban inequities Survey (UIS) currently being tested by UN-Habitat.

40- Ibid.

SUCCESS FACTOR

FOR IMPLEMENTING THE HUMAN RIGHT TO WATER

From various case studies on implementing the right to water, common observations arose:

- Many individuals and communities *are unaware that they have rights* which they can exercise and demand. Awareness is critical at all levels and in all institutions, including government, private sector, civil society organizations, communities and individuals.
- There is a *lack of human capacity and funding* (particularly in Africa where the lack of funding may be the dominant factor).
- Adoption of the right to water in national legislation becomes only *meaningful if it is accompanied with a plan of implementation and a plan for financing*. Secure and sustainable provision will only come through policy change.
- The cooperation of *field-level government officials* is vital: this group of actors is important both for developing the project strategy and for timely implementation. Decentralisation in this context also means the decentralisation of associated funds and provision of human resources to enable sub-sovereign bodies to implement the right to water.
- *Community ownership is vital to success*: good management of the water points and effective cost recovery are closely linked to a community's sense of project ownership.
- *Mediation through a NGO is an effective midterm strategy* and is often key to the project's success.
- *Access to sanitation is essential* to ensure access to safe water (surface and groundwater).

Box 20: Problems encountered in Nigeria

The Nigerian case shows that the willingness of a nation to adopt the right to water to its citizens depends largely on its capacity for implementation and political will of the ruling elites. From the Nigerian experience it is evident that the political will is inclined towards a citizen's right to water. However, this ambition is disconnected in reality due to inadequate finance, technology, institutional and legal framework, low level human capital development and an unfavourable environment for responsible private sector investment.

Source : Denis-Akano F., Africa Safe Water Foundation

These are common reasons that explain difficulties encountered in the implementation of the right to water. From this, a list of key factors for successful implementation of the right to water can be established:

- **A clear understanding of the meaning of the right to water.** It must be clear to everybody what the right to water does and doesn't mean. Moreover,

guidelines should be provided to help governments to implement the right to water. Roles and responsibilities must be well defined, and right holders and duty bearers clearly identified.

- **Increasing awareness and education.** The public and consumers must be informed about their rights. It is necessary for people to know that they have rights and to learn how to use them. However, it is also important to understand that they have also obligations regarding water. People have the right to seek, receive and impart information concerning water issues.
- **Community participation.** It is necessary to involve all stakeholder groups, in particular communities, in decision-making processes, to allow community self-management and to support local actions. A legislative framework to allow effective public participation in decision-making should exist.
- **Improving the enforcement of the right to water** by the creation of accessible and simple claim mechanisms at all levels. Any person or group which has been denied its right to water, must have access to justice at both national and international levels. NGOs should be able to seek redress before administrative bodies or courts on behalf of those without access to services.
- **Setting up solidarity schemes domestically and internationally** to ensure access to water for poor/rural areas and marginalised populations.
- **Linking access to water with access to sanitation.** A more integrated approach, where the provision of water supply is closely linked to the provision of sanitation and health and hygiene education is needed to guarantee sustainability and quality of water.

Lastly, before implementing the right to water, one of the first things to do is to identify those who do not enjoy the right to water. This monitoring necessitates reliable sources and transparency. Governments must have a good knowledge of the situation on the ground. 💧



RECOMMENDATIONS

- The right to water should be **recognised in national legislation and policy**.
- One of the first steps in the implementation of the right to water should be to **create awareness about the existence of the human right to water and the importance of this right**.
- There should be **sustained political will and commitment** for the implementation of the right to water at all levels of governance.
- **In order for the right to water to be implemented, the leadership and initiative of key actors**, whether government departments, NGOs or international agencies **are required as 'boosters'** to help revise laws and policies, provide education and assistance to communities and ensure their effective participation in decision-making. The fact that the right to water is included in international law - and increasingly in national law - is only a preliminary step and will not automatically lead to implementation. However, these rights provide the authority, inspiration and principles for key actors to advocate for and implement the right to water.
- The **political and strategic framework of the right to water** must be **strengthened** defining quantitative means of implementation (financial, material) and monitoring mechanisms.
- Implementing the human right to water requires appropriate mechanisms to **take into special consideration the needs of the most disadvantaged**, including informal settlements.
- **Financial means must be increased and sustained**, in particular, subsidies to reinforce local capacity, training and infrastructure. To ensure a local projects' success, these funds must be mobilised through decentralised mechanisms directly accessible to local actors.
- **Access to information must be guaranteed** and **community participation in decision-making must be promoted**. As in the case of access to information, the right to participate in decision-making, especially for key stakeholders, is essential to achieve sustainable development and to anticipate eventual problems of failure to consult stakeholders on risky environmental policy decisions.
- It is essential that a **monitoring process is defined** to evaluate progress resulting from the implementation of the human right to water and sanitation. It's necessary to create institutions that monitor implementation of the right to water.
- The **implementation approach** for the right to water **must be sustainable**, ensuring that **this right may be guaranteed for present and future generations**. 💧

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Annex I: List of case studies

Within the framework of this programme and with assistance from its sponsors, a series of case studies was carried out to demonstrate how the right to water has been implemented in different countries. All case studies referred to in this list may be consulted at www.worldwatercouncil.org

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Annex II

Source: *Draft Guidelines on the Right to Drinking Water and Sanitation of the UN Sub-Commission on the Promotion and Protection of Human Rights, by Sub-Commission Special Rapporteur El-Hadji Guissé (August 2005).*

1. The Human Right to Water and Sanitation

1.1 Everyone has the right to a sufficient quantity of clean water for essential personal and domestic uses.

1.2 Everyone has the right to have access to an adequate and safe sanitation service that is conducive to public health and the protection of the environment.

1.3 Everyone has the right to water and sanitation service that is:

- a) physically accessible in, or in the immediate vicinity of, their home, school, workplace and health facility;
- b) of sufficient quality and culturally acceptable;
- c) in a location where physical security can be ensured;
- d) provided at a price that each person can afford without reducing that person's ability to purchase other essential goods and services.

2. State Actions to Implement the Right to Water and Sanitation

2.1 Each level of government in a State, including the national government, regional governments and local authorities, has a responsibility to progressively realise the right to water and sanitation for everyone as quickly as possible, using concrete and targeted steps to realise the right and drawing upon available resources to the maximum possible extent.

2.2 The national government should ensure that other levels of government have adequate resources and authority to implement their responsibilities.

2.3 States, at all levels of government, should:

- a) give primary priority in water and sanitation policies and programmes to those without basic access;
- b) develop and implement a plan of action to achieve the full realisation of the right to water and sanitation, that sets out specific targets, indicators and time-frames and identifies the resources needed from national and international sources;
- c) formally recognise the rights to water and sanitation in relevant laws and regulations;
- d) refrain, and ensure that private persons or organisations refrain, from any action that will interfere with any person's right to water and sanitation or any other human right, unless such interference is permitted by law and includes appropriate procedural protections. In situations where a person's access to water and sanitation may legally be reduced after the appropriate steps have

been followed, this person may not be deprived either of the minimum essential amount of water or of basic access to sanitation.

e) establish a regulatory system for all water and sanitation service providers (whether public or private) that requires them to provide equal, affordable and physical access to sufficient and safe water and sanitation services, and which includes mechanisms to ensure genuine public participation, independent monitoring and compliance with regulations.

3. Preventing Discrimination and Addressing the Needs of Vulnerable and Marginalised Groups

3.1 States should ensure that no persons or organisations (public or private) engage in discrimination that impairs anyone's access to water and sanitation on the basis of sex, age, ethnicity, language, religion, political or other opinion, national or social origin, disability, health status, or other comparable status.

3.2 States should ensure that their water and sanitation legislation and policies give special attention to the needs of groups that are either vulnerable or have been traditionally marginalised including women, children, indigenous peoples, deprived rural and urban areas, nomadic and traveller communities, refugees and asylum seekers, internally displaced persons and returnees, prisoner and detainees, and other groups facing difficulties with physical access to water.

3.3 States should prioritise provision of water and sanitation services to institutions serving vulnerable groups, such as schools, hospitals, prisons and refugee camps.

3.4 States should enact and implement legislation to protect access of persons to traditional water sources in rural areas.

4. Water Availability and Equitable Allocation

4.1 States should ensure that there is sufficient and safe water for everyone, including by developing and implementing integrated water resource management and water efficiency plans, preventing and reducing unsustainable extraction, diversion and damming of water, improving the efficiency of water distribution systems to reduce losses and establishing response mechanisms for emergency situations.

4.2 States should put in place measures to prevent over-consumption and promote efficient use of water, for example, public education, dissemination of appropriate conservation technology and, as necessary, limitations on use (including increased charges) after consumption of a reasonable amount.

4.3. The priority in water allocation should be for essential personal and domestic uses for all. In order to realise their right to adequate food and their right to gain a living by work, marginalised and subsistence farmers and other vulnerable groups should be given special attention in allocation of access to available water resources for their basic needs.

4.4. The right to water should be realised in a sustainable manner for present and future generations.

5. Extending Accessibility

5.1 States should progressively ensure that everyone has access to adequate water and sanitation services and that these services are equitably distributed. Where sufficient resources are not available to ensure access to services of high quality, States should invest in services that prioritise the needs of those without basic access, normally through low-cost services that can be upgraded, rather than through expensive services that would benefit only a small section of the population.

5.2 States should promote hygienic use of water and sanitation services, through educational curricula and public education programmes.

5.3 Water and sanitation facilities should be designed to take account of the needs of women and children.

5.4 No person may be denied water and sanitation on the grounds of their housing or land status. Informal settlements should be upgraded through the provision of water and sanitation services and facilities, or support should be provided to communities to construct their own facilities.

6. Affordability

6.1. States should ensure appropriate pricing plans for water and sanitation services, including flexible payment plans and/or cross-subsidies from higher-income users to low-income users.

6.2. States should provide subsidies for water and sanitation services targeted to low-income persons and/or poorer areas unable to secure access through their own means. Subsidies should normally be focused on connection to a piped network or for construction and maintenance of a small water or sanitation facility, such as a well, borehole or latrine.

6.3. Where public resources cannot ensure that each person can afford services of a high quality, States should ensure that a range of services, including cheaper technology options, are available, in order to promote affordable access for persons with low-income.

6.4. States should ensure that before any person's access to water and sanitation services is reduced due to non-payment, their ability to pay is taken into account. No person may be deprived either of the minimum essential amount of water or of basic access to sanitation.

7. Water Quality

7.1 States should formulate water quality standards on the basis of World Health Organization technical guidance, taking into account the needs of vulnerable groups and after consultations with users.

7.2 Water quality standards should prioritise the elimination of pollutants with the most significant health effects in that country or context rather than set high standards that cannot be achieved immediately within the available resources. Such standards should be periodically reviewed and progressively strengthened.

7.3 States should develop regulations and policies to control pollution of water sources, applying to all persons and organisations, public or private, which provide for monitoring, disincentives and penalties for pollution, and assistance with compliance.

7.4 States should prevent and progressively reduce contamination of watersheds and water-related eco-systems by substances such as bacterial pathogens and chemical pollutants. They should monitor water quality in water reserves, as well as piped water.

7.5 States should provide financial and technical assistance, including information and education, to communities that rely on small-scale supplies, in particular for low-income communities.

8. Participation Rights

8.1 Everyone has the right to participate in decision-making processes that affect their right to water and sanitation. Special efforts should be made to ensure the equitable representation in decision-making of groups that are vulnerable or traditionally marginalised, in particular women.

8.2 Communities have the right to determine the nature of their water and sanitation services, the type of management of such services and, where feasible, to choose to manage their own services with assistance from the State.

8.3 Everyone should be given full, transparent and equal access to information concerning water and sanitation held by public authorities or third parties.

9. Remedies and Monitoring

9.1 Everyone should have access to effective administrative and judicial procedures to make complaints about acts and omissions contrary to the right to water and sanitation by any person or organisation, whether public or private.

9.2. States should monitor their implementation of the obligations relating to the right to water and sanitation, including by establishing or enabling an independent institution such as a human rights commission or regulatory agency to carry out monitoring in a transparent manner accountable to users.

10. International Obligation and Solidarity Duty

10.1 States should refrain, and should ensure that private persons and organisations under their jurisdiction refrain, from any action that would interfere with the right to water and sanitation of persons in other countries.

10.2. Developed countries should provide, depending on available resources, sufficient financial and technical assistance to supplement the resources of developing countries, with a view to ensuring that everyone has at least basic access to water and sanitation service as quickly as possible. Each developed country should at least commit to allocate a portion of its official development assistance, proportional to its Gross National Product, to fulfill the objectives set out in the Millennium Declaration and the Johannesburg Plan of Implementation adopted by the World Summit on Sustainable Development with regard to access to water and sanitation.

10.3 Bilateral and multilateral assistance to the water and sanitation sector should be focused on countries unable to realise essential aspects of the right to water and sanitation for their people, provided in a manner that does not interfere with the realisation of any human right and focused on projects that can have tangible benefits for those without basic access to water and sanitation.

10.4 International organisations, including the UN specialised agencies, trade and financial institutions, and the States that are members of these organisations, should ensure that the right to water and sanitation is respected in their policies and operations. States should take the right to water and sanitation into account in formulating and implementing international agreements.