

DOS AND DON'TS OF THE HUMAN RIGHT TO WATER

| DO | DON'T |
|---|---|
| Prioritise access to essential amounts of drinking water and give sufficient priority to marginalised farmers in allocation of water resources | Allocate water supplies solely on the basis of economic power |
| Provide targeted subsidies for water provision to low-income individuals or poorer areas | Charge unaffordable rates to people living in poverty or only subsidise water costs of middle-income persons |
| Establish complaints mechanisms and clear regulations for water service providers, with penalties for non-compliance | Give state agencies or water providers full authority to take decisions without any accountability to users |
| Implement procedural and substantive protections against disconnections and ensure people always have access to at least essential quantities of water | Permit service providers to disconnect or otherwise exclude people from water, even when they are genuinely unable to pay |
| Ensuring that communities determine the type of services that they receive, have access to information and participate in decisions | Forcing communities to submit to pre-determined plans, and failing to provide information on the State's intentions |
| Upgrade slum areas through supporting/providing water services or finding alternative sites that allow people to meet their basic needs | Evicting, or refusing to provide services to informal settlements |
| Invest in services that benefit people without basic access, through low-cost services that can be upgraded | Invest resources in expensive services only accessible to privileged section of the population |
| Establish mechanisms to prevent pollution including expansion of access to sanitation and regulation of industry | Neglect pollution of water sources, and only monitoring water quality of piped water |
| Develop a concrete plan to expand access to all, with concrete targets and timelines and identify available resources and any specific assistance required from donors | Making promises to make improvements without any timelines |
| For wealthier countries, providing adequate level of international assistance, with a view to reaching the 0.7% of GNP target and focusing this on those without access | Reducing aid for water and sanitation. Or providing aid to prestige projects that do not assist the poor |

This chart is guided by the contents of General Comment on the Right to Water, and provides a snapshot of key concerns of the right to water. The General Comment provides a comprehensive list of State obligations. Further information is available at www.cohre.org/water.

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Over a billion individuals globally have no choice but to access water from unsafe sources such as polluted rivers and streams. The indignities faced by those living in poverty include:

- Every day, 3900 children die due to diseases caused by a lack of clean water and sanitation.
- Many women and girls in Africa face long walks of up to 4 hours a day to fetch water from a water source.
- Millions of girls have dropped out of school due to their responsibility of fetching water, or because schools do not have water.

CLEAN WATER FOR THE POOR?

Making the Human Right to Water a Reality

The inability of people to access water for their basic needs is rarely due to a lack of sufficient water in any country. The amount of water used in any country for essential domestic needs is much less than one tenth of the overall water use. Rather, people are without safe water because the infrastructure and regulatory capacity to protect water sources and distribute water are not in place. The know-how and the technologies, in particular low-cost measures, are generally available. What is lacking in many countries, and among the international community, is the political will to govern water effectively and to devote the necessary resources to ensure that all people have access to safe water.

this issue. In 2000, the world's heads of State set the target of reducing, by 2015, the proportion of people unable to access or afford safe water. Even though this target is limited, it will not be met under current trends in many countries, particularly in Africa. Increased financial resources, raised domestically and internationally, and improved policies are required. The Millennium Project Taskforce, a body established by the UN Secretary General, recommended that the international community explore ways to use the General Comment No.15 on the Right to Water to influence national policy on water and sanitation.

This paper addresses the value-added of the human right to water to current efforts to increase access to water. It summarises the primary contents of the General Comment on the Right to Water and the 'dos and don'ts' of the right to water.

In spite of the appalling consequences of lack of access to water, the international community has not demonstrated a sense of urgency on

What does the human right to water mean for the excluded?



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

Priority for people without basic access to water

The right to water means that governments must prioritise ensuring access of adequate water services to all, using available resources in a pro-poor manner. The UN General Comment on the Right to Water notes that in far too many situations, States construct expensive services that serve a small privileged fraction of the population rather than low-cost alternatives that would provide water for a greater number of people.

Access to water as a legal entitlement, rather than mere charity or a commodity

The right to water provides a strong basis for individuals and groups to hold States and other actors to account. Communities can use the right in lobbying the State for water services, or to be allowed permission to manage their own water programmes without arbitrary interference from the State or demands for bribes. Having a legal entitlement to water gives a real mandate to sympathetic government officials to ensure access to water. It also can increase the political profile of access to water. The right to water 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.

Preventing discrimination and neglect of vulnerable and marginalised communities

Denial of access to water is often a deliberate choice of governments, or local authorities, to exclude communities seen as undesirable. Informal settlements the world over are often denied water services as a matter of policy. In one European country, the European Roma Rights Centre has documented the refusal of a local authority to supply a Roma informal settlement with water and sanitation despite offers from international foundations to provide funding. Roma residents consequently contracted skin diseases from using contaminated groundwater.

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

The human right to water requires genuine consultation and participation of communities affected in water service delivery and conservation of water resources. One good example is the municipality of Porto Alegre, Brazil, where the public water company's operations undergo a 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 Alegre.

Governments, international community and the private sector held accountable to ensure access to water.

One of the most significant obstacles to access to water 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 ensure accountability. In Argentina, communities suffering from polluted groundwater obtained a court order requiring the government to provide an emergency water supply and take steps to decontaminate water supplies. Courts in India, Argentina, Brazil, and South Africa, among others, have reversed disconnections of water supply affecting people unable to pay. 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.

What is the Right to Water?

In 2002, the UN Committee on Economic, Social and Cultural Rights released a General Comment on the Right to Water which stated that the human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.

The General Comment provides a detailed blueprint by which States and international actions apply this basic principle to their laws and policies. States are therefore obliged to use available resources effectively in a concrete and targeted manner in programmes to ensure that all have access to water.

The Committee's General Comments are authoritative interpretations of the International Covenant on Economic, Social and Cultural Rights, a human rights treaty ratified by 151 countries. The right to water has also been recognised in many other international standards.¹

Key Components

The General Comment sets out the following components of the right to water. Each person must have access to water that is:

Sufficient – An adequate quantity must be available in accordance with international guidelines. This normally means 50-100 litres, and an absolute minimum of 20 litres.

Safe – Water used for personal and domestic uses must be safe.

Physically accessible – Water must be within safe physical reach, in or near the house, school or health facility.

Affordable – Water should be affordable, not reducing a persons' capacity to buy other essential goods. This means that essential amounts of water must sometimes be provided free.

Duties

Governments that have signed the treaty must take the necessary steps to ensure that everyone has access to water as soon as possible. Some things can be done immediately. Other steps are take time to implement. But governments must demonstrate that they are doing everything possible with their resources.

The Committee identified three main obligations for governments, which must:

Respect – Not unfairly interfere with people's access to water; for example, by disconnecting their water supply even when one is genuinely unable to pay.

Protect – Safeguard people from interference by others; for example, by stopping pollution or unaffordable price increases by corporations.

Fulfil – Take all steps with available resources to realise the right to water; for example, through legislation, effective pricing policies, programmes to expand access to water and monitoring of programmes.

'The right to non-discrimination and equality in the Covenant also means that laws and practices adversely affecting various marginalised and vulnerable groups (for example, women, children and ethnic minorities) should be immediately stopped. Urgent attention should also be given to taking positive steps to assist such groups.'

Governments also have international obligations to help respect, protect and fulfil the right to water of persons in other countries. For example, by providing sufficient and appropriately directed international aid or not cutting off vital access to international rivers.

While human rights are principally concerned with obligations of governments, actors in all parts of society should assist in making the right to water a reality. These actors include:

- 1 Individuals and communities
- 2 Civil society and NGOs
- 3 Private sector
- 4 International organisations.

They should evaluate their activities accordingly. International organisations also have legal obligations, at the very minimum, to respect the right to water.



¹ See Centre on Housing Rights and Evictions Legal Resources for the Right to Water: International and National Standards (Geneva, 2004).