

## A WaterAid Briefing Paper



The Right to Water, Sanitation and Hygiene and the Human Rights-Based approach to development.

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## Summary

This paper looks into the human rights-based approach to development, its specific relevance to water, sanitation and hygiene, and the implication of this approach to the water and sanitation sector. Human rights refer to rights guaranteed by international law, and carries obligations upon governments to promote them. They are rights inherent in every individual and therefore universal. A human rights-based approach to development focuses on the achievement of basic rights whilst fulfilling human need. From this perspective, lack of access to basic services such as water and sanitation are seen as denial of human rights.

There are various challenges to taking a rights-based approach to water, sanitation and hygiene. In part, this is due to the right to water and sanitation not being an explicit right, but deriving from the right to an adequate standard of health and well-being enshrined in the Universal Declaration of Human Rights. Attempts at the global level to set a basic water requirement are part of efforts to make the right to water and sanitation explicit. The rights-based approach is also entangled in failed, expensive supply-driven water projects in the past by governments and the donor community. Demand responsive approaches being widely promoted in the sector raise further questions as to the achievement of human rights in water, sanitation and hygiene.

Human rights are an internationally recognised standard. Thus, it is not surprising that the rights-based approach to development continues to gain ground, with some of the major donor countries and NGOs taking this approach.

## Introduction

In the 1990s, official development assistance began to be concerned with the achievement of human rights, good governance and democracy.<sup>1</sup> In official development rhetoric, development on the basis of a positive promotion of basic human rights has become common currency.

This new focus on human rights in development assistance in the 1990s coincides with growing awareness of the effects and impact of globalisation on countries, peoples and communities. The flow of investment capital, trade, information, technology, culture across national borders has both enriched and impoverished, integrated and excluded communities and nations. Those countries excluded from the progress brought about by globalisation find their governments less able to achieve the most basic standards of human dignity for their peoples, and their peoples more vulnerable to natural and man-made disasters. **In the midst of growing global prosperity and human development, there**

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<sup>1</sup> In November 1991, the European Council passed a resolution to incorporate positive promotion of human rights into development cooperation. 'Human Rights, Democracy and Development' stressed the important role of development assistance in promoting both economic, social and cultural rights as well as civil and political liberties. Emphasis was placed on assisting in the building of representative democracy, structures for good governance, transparency and accountability of governments. The latest Member State to incorporate human rights into development assistance is the UK, with its 1997 White Paper on international development.

is increasing human insecurity, bringing with it threats to international security. Against this background, the protection and promotion of human rights translates to redressing the negative impact of globalisation on the world's poor. (HDR 1999)

#### **Box 1 Globalisation with a Human Face**

The 1999 Human Development Report states that the challenge of globalisation is to 'find the rules and institutions for stronger governance'. This would ensure that the economic advantages of global markets are preserved. More importantly, stronger governance would help to create space for people, institutions, communities to ensure that globalisation works for people as well as profits. 'This is globalisation with

- *Ethics* – less violation of human rights, not more
  - *Equity* – less disparity within and between nations, not more
  - *Inclusion* – less marginalisation of people and countries, not more
  - *Human security* – less instability of societies and less vulnerability of people, not more
  - *Sustainability* – less environmental destruction, not more
  - *Development* – less poverty and deprivation, not more'
- (1999 Human Development Report, p. 6)

In the water and sanitation sector, there have been recent calls to make the right to water and sanitation an explicit human right. (Gleick 1999) And a document outlining the Vision for Water for People in the 21st century anchors its conceptual framework on the basic human right to water and sanitation.<sup>2</sup>

What constitutes the human right to water? What would a human-rights approach to water, sanitation and hygiene encompass and what would its implications be on current approaches in the sector?

This paper first outlines the key concepts of human rights and rights-based development approach, and then examines these concepts in the light of the water and sanitation sector. It concludes with suggestions on the use of this approach at global, sectoral and project levels.

#### **Human rights - key concepts**

Human rights are rights inherent in every individual and recognised under international law. The Universal Declaration on Human Rights adopted by the United Nations in 1948 was given legal force in two covenants: The International Covenant on Economic, Social and Cultural Rights (ICESCR) and The International Covenant on Civil and Political Rights (ICCPR), and in two treaties providing additional protection to the rights of women and children: The Convention on the Elimination of All Forms of Discrimination Against

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<sup>2</sup> Vision 21 is an international consultative process to develop a document – the Vision for Water for People for the 21<sup>st</sup> century. The process was initiated in 1998 and is being co-ordinated by the Water Supply and Sanitation Collaborative Council. The final document will form part of the World Vision on Water, which will also incorporate visions for Water for Life and Water for the Environment. The World Vision on Water and its Framework for Action will be presented at a Ministerial Conference during the World Water Forum which will be held in The Hague on 16-22 March 2000. It is envisaged that the whole process will result in a global agreement on goals and targets on water resource use for the 21<sup>st</sup> century.

Women (CEDAW) and The Convention on the Rights of the Child (CRC). Together these four human rights instruments encapsulate universal standards of humanity. As such, national and international civil society movements have used them:

- to lobby states to sign and ratify these instruments,
- to lobby for national legislation consistent with international state obligations,
- to highlight state practice that are inconsistent with their international obligations, especially in regard to denial and abuse of human rights, in order to bring international public opinion to bear upon offending states parties, and
- to use them as tools to analyse existing policies or to develop alternative ones.

Human rights covenants and treaties carry obligations upon states which have signed and ratified them. Once a state ratifies a particular international covenant, it is obliged to respect, protect, promote, and work towards the progressive achievement of the full realisation of the rights covered in the covenant. In practice, this could mean that:-

- international human rights instruments are incorporated into national constitutions,
- policies and laws in line with the covenants/treaties are developed and passed,
- actions are undertaken by the state to fulfil its obligations under the covenant and/or treaty.

The obligations also mean that states parties report on their own progress in realising these rights for people under their jurisdiction and monitoring the progress of other states signatories. The UN Committee on Economic, Social and Cultural Rights and Committee on Human Rights and other treaty bodies monitor compliance by state signatories to covenants and treaties. In the case of the ICCPR, individuals and groups may also submit complaints to the UN Committee on Human Rights directly, in cases of gross violations of human rights. Civil society organisations, international NGO networks have been successful in using this reporting mechanism to highlight inconsistencies between state reports and reality.

#### **Box 2 Summary of Human Rights**

Human rights necessary for survival and dignified living include:

- the rights to life and liberty
- the right to a standard of living adequate for health and wellbeing of the individual and his/her family, including food, water and housing, and the right to continuous improvements of living conditions
- the right to social protection in times of need
- the right to the highest attainable standard of physical and mental health
- the right to work and to just and favourable conditions of work
- the rights to privacy and to family life

Human rights also cover those rights and freedoms necessary for human dignity, creativity and intellectual and spiritual development, namely:

- the right to education and to access to information
- freedoms of religion, opinion, speech, and expression

- freedom of association
- the right to participate in the political process
- the right to participate in cultural life

Human rights necessary for liberty and physical security include:

- freedom from slavery or servitude
- the right to security of person (physical integrity)
- the right to be free from arbitrary arrest or imprisonment, and to a fair trial
- freedom from torture and from cruel, inhuman or degrading treatment or punishment

(White Paper on International Development 1997, p. 17)

'Human rights' used to be understood in a limited sense as referring specifically to civil liberties and political freedoms. Cold war propaganda to contrast western democracies against eastern bloc socialist regimes shaped and limited the discourse on human rights. In the 70s and 80s, as several developing countries experienced political upheavals against colonialism and corrupt, autocratic regimes, it became common practice for the donor community to criticise the track record of human rights abuses by governments and to threaten withdrawal of aid to these countries (what is known as negative aid conditionality). Thus, the 'human rights' discourse almost excluded economic, social and cultural rights.

The 1993 World Conference on Human Rights held in Vienna was a watershed in promoting a fuller understanding of the concept of human rights. **Human rights are universal, indivisible, inter-related and inter-dependent. There is no hierarchy of human rights, one set of rights is not more important than another. Instead, the realisation of one set of rights paves the way for the realisation of others**, so equal priority should be accorded to all human rights. The Vienna Conference also recognised that development and respect for human rights are mutually reinforcing and inter-dependent. Furthermore, women's rights and the right to development were affirmed as part of fundamental human rights.

The Vienna Conference helped pave the way to a convergence between the human rights and development agenda, and to a positive view of rights. The attention of the donor community shifted to what could be done to promote realisation of human rights and prevent abuse or denial of rights over what sanctions should be placed against states which violate human rights.

### **Human rights based approach to development**

The basic premise of this approach is that development has a human face. The purpose of development is to enable people to live in dignity and to attain the highest standards of humanity guaranteed by international human rights laws. **Human rights then become the 'coherent framework for concrete action to eliminate poverty'**. (Hausermann 1998) People who live in poverty do not enjoy their human rights, because they are actively denied these rights (e.g., through different kinds of discrimination), or due to state policies, action or inaction, or due to international policies, and the action or inaction of global institutions.

The focus of the human rights-based approach to development is on the poor, as they are the ones who are denied their basic rights to life and dignity. The poor also often have less social, political, economic resources for achieving their rights. This focus on the poor translates into the poor being the main beneficiaries of development and, at the same time, the main actors of development. **A human rights perspective embraces a belief in the capacity and ability of people to enlarge their own choices, given the necessary environment and assistance. A human rights-based approach to development therefore involves the empowerment of poor people to change their circumstances.** As such, it **rejects the premise of charity and hand-outs**, which is based on a view of people as passive recipients of development aid.

### **Box 3 Summary of human rights-based approach to development**

A human rights approach to human development is one which:

- stresses liberty, equality, and empowerment,
- puts people first and promotes human-centred development,
- recognises the inherent dignity of every human being without distinction,
- recognises and promotes equality between women and men,
- promotes equal opportunities and choices for all so that everyone can develop their own unique potential and have a chance to contribute to development and society,
- promotes national and international systems based on economic equity, equitable access to public resources, and social justice,
- promotes mutual respect between peoples as a basis for peace, justice and conflict resolution

In practice, for official development assistance, this would mean promoting:

- Analysis of the enjoyment of human rights by poor people within a given state including, where possible, analysis in partnership with poor people of their actual experience with respect to enjoyment and denial of their fundamental human rights, using the yardstick of international human rights norms and standards,
- Identification of the steps which states are obliged to take, in order to comply both with their legal obligations under international law, and also with the political commitments they have undertaken in this regard at international conferences,
- Assistance to partner countries through development co-operation to help them to meet these obligations,
- Identification of the best practices in achieving realisation of the rights affected and improving the quality of life of poor people,
- The political will and allocation of sufficient resources to implement the strategies identified.

(Hausermann, 1998, p. 32)

Incorporating a human rights perspective into development sharpens the focus of development effort. It seeks out the poorest and most vulnerable in any community,

**strengthening their capacity to act together to fulfil their needs**, and to recognise and act upon the policies, laws and practice of government and international institutions that play a role in their impoverishment. It integrates into development planning and action a concern for the quality of democracy and governance at the village and national levels. It emphasises the links between people active in achieving realisation of their rights, and the barriers that prevent them from doing so.

On the other hand, linking human rights with development broadens the human rights discourse and movement to include an equal focus on economic, social and cultural rights, along with civil and political rights. In adopting a human rights perspective to development, bilateral agencies shifted from negative to positive aid conditionality, with more development and technical assistance unlocked in response to states promoting realisation of economic, social and cultural rights. The donor community also began to recognise and support the role of civil society organisations in promoting and achieving these rights and in helping to ensure transparency and accountability of government institutions.

This approach to development continues to gain ground. The OECD Development Assistance Committee's 2015 targets are based on realisation of people's basic human rights. In 1998, to commemorate the 50th anniversary of the Universal Declaration on Human Rights, the World Bank issued its policy statement **anchoring poverty-reduction on promotion of human rights**.

Many UK international NGOs promote basic human rights through their support for basic services provision and community development projects in developing countries, and through their public education campaigns and advocacy work. Some examples include the Save the Children Fund Alliance which campaigns, lobbies and undertakes development work on the basis of promotion of children's rights as incorporated in the International Convention on the Rights of the Child. Oxfam (UK and Ireland) basic rights campaign links the lack of access to basic services such as water, education, health, food to levels of debt burden on developing countries and the other factors that keep poor people in poverty. In the countries where they work, Oxfam supports projects and services that promote access to these rights, gender equity, and people empowerment.

International campaigns on debt lobby for debt relief, but also for international donors to spend more on achieving basic human rights for all peoples (following the 20/20 principle advocated by the UNDP in 1992). A new consortium of UN agencies and international NGOs in disaster and emergency work have recently successfully used the human rights framework to agree minimum standards of emergency work. The discourse on corporate social accountability and methods of social accounting have also incorporated human rights into its agenda. Beyond the development NGOs, the international women's movement, trade unions, indigenous peoples movement are active in promoting human rights.

### **Water and human rights**

Water, sanitation and hygiene are not just basic human needs, they are also fundamental human rights. **But not until the Convention on the Rights of the Child was adopted in 1986 (ratified by all but 2 countries in the world) was the human right to safe water and sanitation made explicit.** Before that, it had always been implied as a basic

precondition for the realisation of the right to an 'adequate standard of living' (Art. 11, ICESCR) and the 'enjoyment of the highest attainable standard of physical and mental health' (Art. 12, ICESCR), or indeed of the right to life (Art. 6, ICCPR).

**Box 4 UN Covenants and Conventions guaranteeing right to water and sanitation**

**I. The right to water and sanitation is implied in the following:**

Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly on 10 December 1948:

Art. 25

1. 'Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services...'

International Covenant on Economic, Social and Cultural Rights, adopted and opened for signature, ratification and accession by General Assembly on 16 December 1966 (Ratified or acceded by 135 countries, 57 countries remaining):

Art. 11

1. 'The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, housing, and the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance of international co-operation based on free consent.'

Art. 12

1. 'The States Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve full realisation of this right shall include those necessary for:
  - (b) The improvement of all aspects of environmental and industrial hygiene;
  - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases.'

**II. The right to water and sanitation is explicitly stated in the following:**

Convention on the Elimination of all Forms of Discrimination Against Women, adopted and opened for signature, ratification and accession by General Assembly on 18 December 1979. Entry into Force, 3

September 1981 (Ratified or acceded by 153 countries, 39 countries remaining)

Art. 14

2. 'States 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 such women the right:

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.'

Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly on 20 November 1989. Entry into force, 2 September 1990 (Ratified or acceded by 190 countries, 2 countries remaining)

Art. 24

1. States Parties recognise 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. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and in particular, shall take appropriate measures:

- a) to diminish infant and child mortality;
- b) to combat disease and malnutrition, including within the framework of primary health care, through among other things, 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;
- c) to ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents.

UN conferences which addressed water issues, from the 1977 UN Water Conference at Mar del Plata to the 1992 UN Conference on Environment and Development at Rio de Janeiro routinely declared the right to access to drinking water and sanitation. Nevertheless, some quarters in the sector are currently calling for the right to water and sanitation to be made more explicit. **This is because, despite the rhetoric, development and investment in the water and sanitation sector consistently falls behind other sectoral uses of water.** Also in light of growing water stress and scarcity in a number of countries, there is a risk that provision of water supply and sanitation would slip further in water resource planning priorities.

#### **Box 5 Reasons given for making the right to water an explicit human right**

- To pave the way for translating this right into specific national and international legal obligations and responsibilities.
- To make the state of water management all over the world a focus of attention
- To cause the identification of minimum water requirements and allocations for all individuals, communities and nations, which will in turn help to focus attention on resolutions of international watershed disputes and conflicts over the use of shared water
- To help set priorities for water policy so that to satisfy the right to water, meeting the basic water requirement for all humans would take precedence over other water management and investment decisions (Gleick 1999)
- To catalyse international agreement on the issue
- To emphasise governments' obligations to ensure access as well as their obligations to provide international and national support towards efforts to give and protect access to clean water (Jolly 1998, quoted in Gleick, op. cit.)

**Making the right to water and sanitation explicit begs questions of definition.** How much water, and of what quality, do individuals have a right to? What kind of access is necessary to fulfil the right? What responsibilities do individuals have vis-a-vis this right? What priority does this right carry in relation to other uses of water (e.g., for agricultural food production, industry, leisure, the environment)? How is this right promoted, safeguarded, monitored?

#### Basic water requirement

**Some efforts to define the right to water and sanitation have focused on the concept of a basic water requirement (BWR) that governments, water agencies, community organisations should guarantee to everyone under its jurisdiction before other uses of water.** The BWR refers to the amount of water that an individual would need daily to fulfil their four basic domestic needs: drinking, sanitation, bathing and cooking. Various levels of BWR have been suggested by the World Bank, WHO, USAID, the UN based on fundamental health conditions individuals have to achieve, and assumptions of technology choices made at modest levels of economic development. Estimates of the BWR range from 20 - 50 litres per day, independent of climate, technology and culture. (Gleick 1998)

Some argue on the other hand, that there could be no universal standard in regard to the BWR. Basic domestic water requirements are dependent on a variety of factors including the state of freshwater resources in any given location. In water stress and water scarce regions where competition for use of water is intense between domestic and agricultural sectors, a BWR of 20-50 lpd is an empty concept. Using 1990 data, Gleick (1998) lists 55 countries where domestic per capita water withdrawals failed to provide 50 lpd. In

eight of these countries, the aggregate of all sectoral uses of water failed to achieve the BWR. Nevertheless, those who advocate for the BWR state that the specific amount is less important than the principle of setting a goal (a basic water requirement that would be a standard), so that actions can be planned, implemented, and monitored.

#### Quality of water

**Underlying the concept of a basic water requirement is a requirement of quality. Unsafe, dirty water is the major cause of water-related diseases that kill up to 5 million people annually, mostly children. These deaths occur largely in the developing world.** Apart from deaths, dirty water results in high costs to families, communities and governments in the form of direct medical expenses, lost work time, lost education and opportunities for families, lost economic productivity of sick workers, therefore contributing to household and community poverty. A 1993 estimate using the equivalent in 1970 US dollars placed the costs of water-related diseases at over \$125 billion per year. When those who become sick or die are women, the economic and social costs are even greater to the family and community.

The requirement of quality remains relevant where water supply has been improved through the construction of water points. The experience of arsenic contamination of wells in parts of Bangladesh, and the resulting morbidity and fatalities due to arsenic poisoning which hit the headlines recently, serves to highlight the right to safe water for basic domestic needs. Some 25 million people have been exposed to arsenic. That communities tried to sue both the Bangladeshi government and UNICEF who undertook financing and construction of the wells years ago also underscores the obligations of state institutions to protect the right to safe water.

What level of water quality fulfils the right to safe water? There is general agreement for example, that for drinking water to be considered safe, ideally it should contain zero *E. coli*. This is to be expected particularly with treated water. However, in village water supply that uses ground water (protected spring, sealed well or tube well), the aim is that in any 12 month period, tests of water quality should only contain the average of 8 *E. coli* per 100 ml of water. (Mara in Cairncross and Feachem, 1978). The World Health Organisation has produced guidelines for testing efficient kinds of organic and inorganic contaminants of water. However, many countries in the developing world do not have the means to test for water quality according to the WHO guidelines.

The means to ensure safe water are increasingly stretched as the threats to water quality increase. More pollutants from agricultural and industrial chemicals, human and animal waste find their way through various routes into surface and groundwater supplies. But other factors also threaten water quality: increasing population and migration into cities, the prohibitive costs of water treatment and decontamination, contamination of aquifers near sea coasts with salt from oceans as a result of over-pumping, high sedimentation of rivers due to massive deforestation. (UN 1997)

#### Affordability of water

Providing access to clean, adequate and reliable supplies of water for a basic water requirement requires massive investments. In spite of these costs, right of access to water has been considered a 'free' right in the past. At present, such a notion has been

discredited, after the failure of much drinking water projects in the 70s and 80s, with their legacy of broken and inoperable pumps dotting the rural landscape. **Current global water policy emphasises that water is a finite resource and that it should be treated as an economic commodity, not just a social commodity, therefore having an economic value.** This brings up the issue of affordability of water as an element in the human right to water and sanitation.

In 1992, the International Conference on Water and the Environment held in Dublin set out four guiding principles for action to reverse the trends of over-consumption, pollution and rising threats from drought and floods. One of the four principles states that water is an economic commodity with an economic value in all its competing uses. Within this principle, it acknowledged the basic right to have access to clean water and sanitation at an affordable price.

In the community water supply and sanitation sector, this policy was translated into a demand-responsive approach to community water supply and sanitation projects, with demand measured in communities' willingness and ability to pay for capital, operating and maintenance costs. For urban water supply, calls were also made to review water pricing in order to reflect the true costs of water and to recover some of those costs.

**Some ask whether the domination of economic imperatives will result in rights being enjoyed only by those who can afford them. (Howsam 1996, Ghosh 1999). Or that those who can pay more could receive a better service, both in terms of quality and quantity of water, regardless of the state of water resources in the area.** This would be contrary to the approach of 'some for all, rather than more for some' embraced by Agenda 21 in 1992, and before it, by the 1990 Global Consultation on Safe Water and Sanitation for the 1990s held in New Delhi.

### Water and the poor

The thinking behind treating water as an economic good was to reduce the wasteful and inefficient use of water by all sectors: industrial, agricultural, domestic. Pricing water to reflect true costs of supply, conservation, sewage and treatment of wastewater would force the different sectors to reduce their consumption of the product, and encourage efficient use (especially in agriculture, where it is estimated that 40 percent of water used does not go into crop production) However, the story is different when it comes to the urban and rural poor who do not enjoy access to water. In the first place, they hardly over-consume it as their supply is limited by what their meagre incomes can buy. In the second place, poor households' use of water is often efficient and productive: for example, wastewater from washing is often used for cleaning and sanitation. In addition, many poor households use water to earn an income: for example, for preparing and cooking food or for turning into ice for sale, laundry work, or even for cleaning peoples' car windows. In rural areas, water for domestic use is also used for livestock, for growing vegetables and for making bricks.

The poor in urban and peri-urban areas, on average, already pay from 5 to 25 times more than the middle and high income households connected to the municipal water system. This is for water that falls below the BWR and whose quality is not even guaranteed. In some households, this is equivalent to 40-50 percent of their monthly income. Connecting the poor so that they are supplied adequately with safe water, and

charging them a price that reflects water's true costs could probably reflect a reduction in their water expenditure in real terms, even if their water consumption stayed the same. Any reductions in expenditure is helpful, but the cost burden to the poor would still be disproportionately high compared to that of other sections in society, and also in proportion to their own expenditure on other basic needs. On the other hand, if the price of municipal water is higher than what they pay to informal suppliers, this would further reduce consumption and lead to negative effects on health, hygiene, and income. Subsidising the poor's use of water is being put forward as a way to prevent this happening.

In rural communities, to enjoy the basic right to water means that women and children spend several hours each day collecting water from distant streams. **WHO estimate that every year, African women and children spend 40 billion hours hauling water.** (quoted in Cosgrove and Rijsbermann, 1998) With a demand responsive approach commonly suggesting a 5 percent cash contribution to capital costs over and above contributions in kind and labour present additional burdens on poor households. The economic arguments for water supply based on demand and on pricing that reflects the true cost of water provision could fail to promote, guarantee and protect a basic human right to water for all people, especially people with little ability to pay or whose payment for water consumption at market value rates compromise their ability to enjoy other basic rights. Instead of promoting access, this could present additional barriers to the poor enjoying the right to adequate and safe drinking water.

#### Right to a sustainable freshwater resource

Another element of the human right to water is a right to a sustainable freshwater resource. In many parts of the world, widespread water scarcity, gradual destruction and increased pollution of freshwater resources on one hand, and population growth and migration, on the other, threaten sustainability of these resources. The causes include deforestation, pollution of freshwater sources, inefficient use of water, especially by irrigation systems that have reduced the land's ability to grow food, lack of public awareness and education about the need and the ways to protect water resources, a development model that was environmentally destructive (such as building dams, diverting rivers, building on floodplains). In the light of dwindling freshwater resources, the competition among the different users of water grows more intense. In the developing world, this has resulted in increases in the numbers of people without access to water and sanitation, and in the costs for providing these basic necessities.

The debate on sustainable freshwater resource rests to a large extent on issues of efficiency in the use of water. Some have argued that universal and sustainable access to water supply and sanitation cannot be met without efficiency and effectiveness in the use of water. (Nigam and Rasheed 1998) Inefficiencies in urban areas occur primarily through leakages in water pipes, in rural areas, through wasteful irrigation practices.

Chapter 18 of Agenda 21 called for better water management delegated to the lowest appropriate level, with full public participation in water management and decision-making. **The 6th session of the Commission on Sustainable Development encouraged governments to formulate and publish the main goals, long- and short-term objectives and general principles of integrated water resource management policies and implement them by means of comprehensive programmes. Strong barriers exist, however, that**

prevent action on this recommendation, including lack of technical skill and of adequate data on water resources and use. Strong sectoral lobbies in agriculture and industry, with interests often championed in the highest offices of governments, also present barriers to developing these policies and programmes.

### **Sanitation and human rights**

So far this paper has discussed concepts of the right to water, and the barriers to full enjoyment of that right. Sanitation and hygiene present a bigger problem. Half the world's population does not have access to adequate sanitation, over twice the number of those without access to safe water. The right to adequate sanitation is also guaranteed under human rights laws, specifically under the provisions of Art. 12 of the ICESCR, which called for the 'improvement of all aspects of environmental and industrial hygiene'.

In the water and sanitation sector, water supply provision takes the bulk of resources and investments. **Part of the problem lies with sector professionals responsible for planning water and sanitation programmes. At the planning stage, sanitation and hygiene promotion is de-coupled from water supply provision, despite the rhetoric on integrated water and sanitation projects.** Unlike water supply, for which household and community demand is expressed in measurable terms of quantity and quality and sometimes in terms of distance, demand for sanitation provision is expressed in terms of desire for dignity, aesthetics, order and respect (Curtis 1999) making it difficult for planners and programme implementors to recognise the demand.

And yet, the lack of adequate sanitation and hygiene promotion causes severe health problems, greater than does the lack of adequate water supply, as human and animal faecal matter find their way into water supply and food ingested. These problems increase poverty, affects children's growth, survival and development, and reduces productivity and consequently, household incomes.

Perhaps, as in water, a basic sanitation requirement could be conceptualised. Some have expressed this in terms of household rather than individual requirement. (Schertenleib, 1999). For the household this would involve having a means for the safe disposal of human and animal excreta which would not preclude their possible use for other purposes (e.g., as fertiliser, for fuel), and adequate water for handwashing so as to prevent contamination of food and drinking water. This should be balanced with the needs of the environment to support healthy life on earth. Effective hygiene promotion would need to accompany sanitation provision or the health impacts of sanitation would be limited.

### **Water and sanitation rights and land rights**

In urban slum communities, the right of access to water and sanitation services and facilities is often dependent on the right to land tenure. Municipal water supply and sewerage systems stop at the entrance to slum communities. The reasons are clear. Not having legal rights to the land, municipal governments or city corporations do not want to provide infrastructure support to slum households as this may be used by the communities to argue for tenure and legalisation.

Where infrastructure services are won by slum communities, this sometimes results in land illegally occupied to then be opened for more lucrative commercial development, and consequently, the eviction of slum dwellers. Often, getting infrastructure services into a community becomes reason for house-owners and slum landlords to increase house rent, thus paving the way for evictions of the poorest households.

### **The right to participate in development**

The sustainable access to a safe, reliable and affordable water supply and to adequate sanitation is only achieved if people are able to participate in the planning and management of the services that will impact on their lives. This much was learned from the experience of the International Drinking Water and Sanitation Decade, thus prompting the four principles adopted at the Dublin Conference in 1992. Demand responsive approaches to water supply and sanitation provision argue for communities to demand services, and for communities to make decisions over choice of technology and level of service that they require, and are willing to pay and sustain. This presupposes a level of organisation and voice, that may not necessarily be present. It also presupposes a readiness and willingness from the professional and technical people in charge of providing the service to share information in ways that the communities will be able to understand and make decisions on, and to listen to the concerns that communities are articulating. In a sector where the technicians and engineering professionals have run the show for a long time, this is not an easy change. Largely because engineers and technicians are accustomed to dealing with the technologies and the hardware, and are not necessarily equipped to work on the software issues or community organising, community training and empowerment.

### **The role of the state**

As pointed out in the first part of this paper, human rights present obligations on the state to guarantee for the people under its jurisdiction realisation of their rights. **In a situation where state resources are shrinking due to economic and financial crises, including unsustainable debt, alternative sources of financing for water supply and sanitation are being investigated.** This includes cost-recovery through pricing on the basis of the true costs of water (which would include costs for distribution and treatment as well as opportunity costs) (Briscoe 1996) and private sector investments, amongst others. Some of the issues associated with these, referring to the inability of the market to allocate freshwater resources equitably across socio-economic groups and across competing uses, have been discussed above. What some writers point out is that economic and market efficiencies would not necessarily result in inequities (a failure to realise rights to water and sanitation for the poor) so long as governments guarantee the basic levels of services for all. This requires public investments, and the formulation of effective regulation to ensure that marginalised groups get adequate and acceptable levels of service, and that the environment is protected.

### **Recommendations for Action**

This section of the paper presents recommendations for action at the global, sectoral and project levels.

Global and national levels: There is a need for sustained advocacy on the promotion of the human right to water and sanitation, especially of poor people. In particular, states' compliance with international agreements and obligations under covenants, treaties and programmes of action, such as Agenda 21 and the recommendations of the 6th session of the Commission on Sustainable Development, require monitoring by national and international civil society organisations.

Calls need to be made to increase expenditure on water and sanitation under the 20/20 principle advocated by the UNDP. This principle calls on governments to invest up to 20 percent of their budgets on the provision of basic services, and for the international donor community to match this investment with 20 percent of development aid going into basic services. Expenditure on water, sanitation and hygiene needs to be monitored, nationally and internationally, to ensure that the levels of investment and development assistance are adequate for the levels of need. At the same time, calls for more grassroots participation in water resource management planning at all levels need to be made, backed up by guidelines on how to achieve genuine involvement especially of the poor and vulnerable.

There is a need to undertake documentation and analysis of experience of demand responsive approaches and privatisation of water supply and sanitation and their different impacts on the rural and urban poor, and to communicate the results to as wide an audience as possible. Concern for human rights to water and sanitation could also be raised as an agenda for private sector contractors and concessionaires in urban water supply in developing countries. The World Water Vision and the specific Vision for Water for People (domestic uses of water), in as much as they support and advocate the realisation of the human right to water and sanitation for the poor, would need to garner international support, through a combination of international and national advocacy and communication activities.

Sectoral level: Sectoral networks involving organisations, agencies and individuals involved in water supply, sanitation and hygiene would need to be formed at local, national and international levels for purposes of joint advocacy and campaigns, and for learning and sharing best practice. These networks need to engage in cross-sectoral alliances with environmental, women, children, human rights, food security networks in order to strengthen the constituency promoting the human right to water and sanitation as a priority. Whilst certain networks involving both civil society and government organisations already exist, there are good arguments for alliances of civil society organisations alone to be established. These could perform watchdog roles vis-a-vis government and the private sector.

Documentation of best practice in the provision and achievement of integrated approaches needs to be undertaken and promoted as effective ways of realising universal access to water and sanitation. In documentation, more focus needs to be placed on gender, specifically understanding the different roles and responsibilities of women and men if effective community participation is to be achieved. Also, there needs to be more emphasis in developing and advocating best practice in sanitation and hygiene promotion, as these lag way behind water supply provisioning. At the same time, more advocacy work needs to be undertaken on sanitation and hygiene promotion to raise awareness and commitment to them.

A review of how communities are organised, and for what reasons, needs to be undertaken in order to improve the ability of communities to claim their rights to water and sanitation. NGOs in the sector would need to review their practice of community mobilisation for purposes of construction, operation and maintenance to support and promote community empowerment processes. The results of these reviews may mean that new skills need to be developed amongst water sector practitioners.

There needs to be a review of the roles of the international sectoral institutions. Efforts need to be made to ensure not only that these are able to provide leadership to the sector, that links with other water sectors are strong, but also that they are transparent and accountable bodies.

Project level: There needs to be more focus on gender equality, not just in mobilising women to participate in water and sanitation projects. At the same time, more effort must be taken in identifying the poorest sections of the community, and to engage them in determining the level of service that they require, and are willing to sustain. Community mobilisation efforts would need to promote community empowerment and understanding by communities of their rights to water, sanitation and hygiene. Genuinely integrated water, sanitation, hygiene promotion services would need to be undertaken. Difficulties and barriers, whether posed by a lack of skill, weaknesses in understanding, or in commitment to integrated projects need to be addressed through training, advocacy, and building opportunities for sharing best practice.

Projects would need to go beyond being conceived as construction projects (with social mobilisation used to support construction) and must be planned as services, with support for community development and empowerment (for achieving continuing improvements in water supply, sanitation, health and hygiene) becoming an ongoing concern. In addition, understanding water resource management at the basin-level or watershed level needs to be heightened to enable community stakeholders to participate genuinely in resource management processes. Feasibility of basin-level and/or watershed level services needs to be investigated, and capacity to work at this level of service needs to be built.

## **Conclusion**

Over a billion people in developing countries do not have access to clean drinking water. Nearly three billion do not have access to adequate sanitation. The 20th century ends with this legacy: a testimony to the failure of governments, international donor community, local and national development agencies and communities to meet one of the most basic conditions for human development.

To achieve universal access to water and sanitation, the human right to water and sanitation needs to be recognised and fulfilled. There has not been any failure by the international community in declaring the right to water in numerous international conferences and UN meetings. Water policies and strategies however are not consistent with these declarations.

It is time that all development actors act in concert to achieve the right of access to water and sanitation for all.

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