



Leaving No One Behind through Law and Policy Reform

Amanda Loeffen, Director General, WaterLex
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Who is WaterLex?

Our Vision

A world where there is sustainable use and access to safe water and sanitation for all

Our Mission

To secure the human rights to water and sanitation through law and policy reform

THE HUMAN RIGHTS TO WATER AND SANITATION

AN ANNOTATED SELECTION OF INTERNATIONAL
AND REGIONAL LAW AND MECHANISMS



Global Risks

- World facing hydric stress
- Water crises
- Scarcity – demand 40% beyond supply by 2030
- Nexus of food/water/energy/climate change
- Profound effects on the most vulnerable



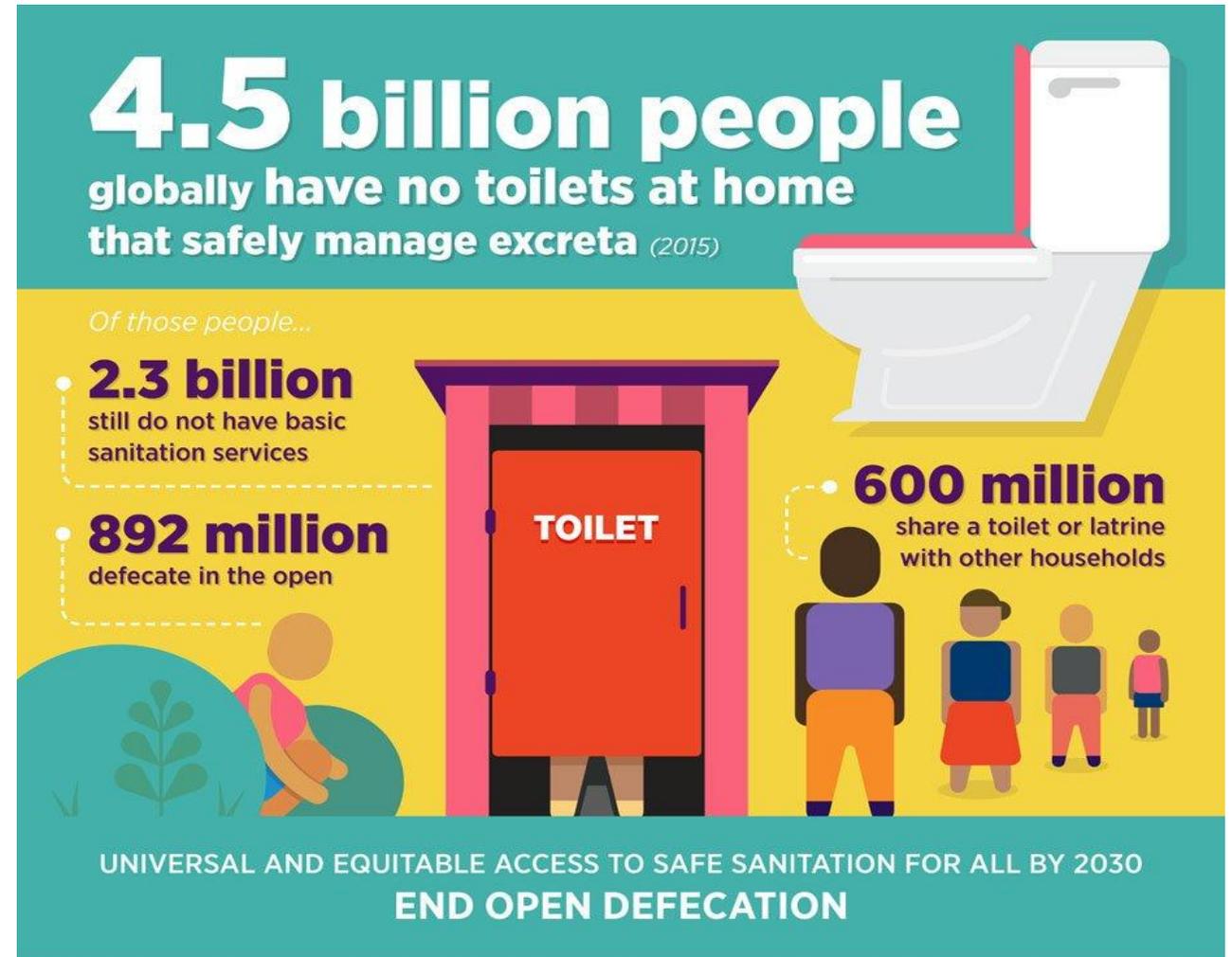
The reality is that...



And...

But how do we know who is being left behind?

And how do we help them?



Effects of Inadequate water and sanitation



Effects of inadequate water and sanitation on human health

At any one time, close to **half** of all people in developing countries are suffering from health problems caused by poor water and sanitation

Diarrhoea	Intestinal Worms	Trachoma	Schistosomiasis	Malaria
2.2 M die mostly <5yr	10% people malnutrition	6 M blind 500M at risk	200 M infected 20 M severe	1.2 M die mostly <5yr

Reasons for inadequate access

Social

Exclusion from decision-making

Economic

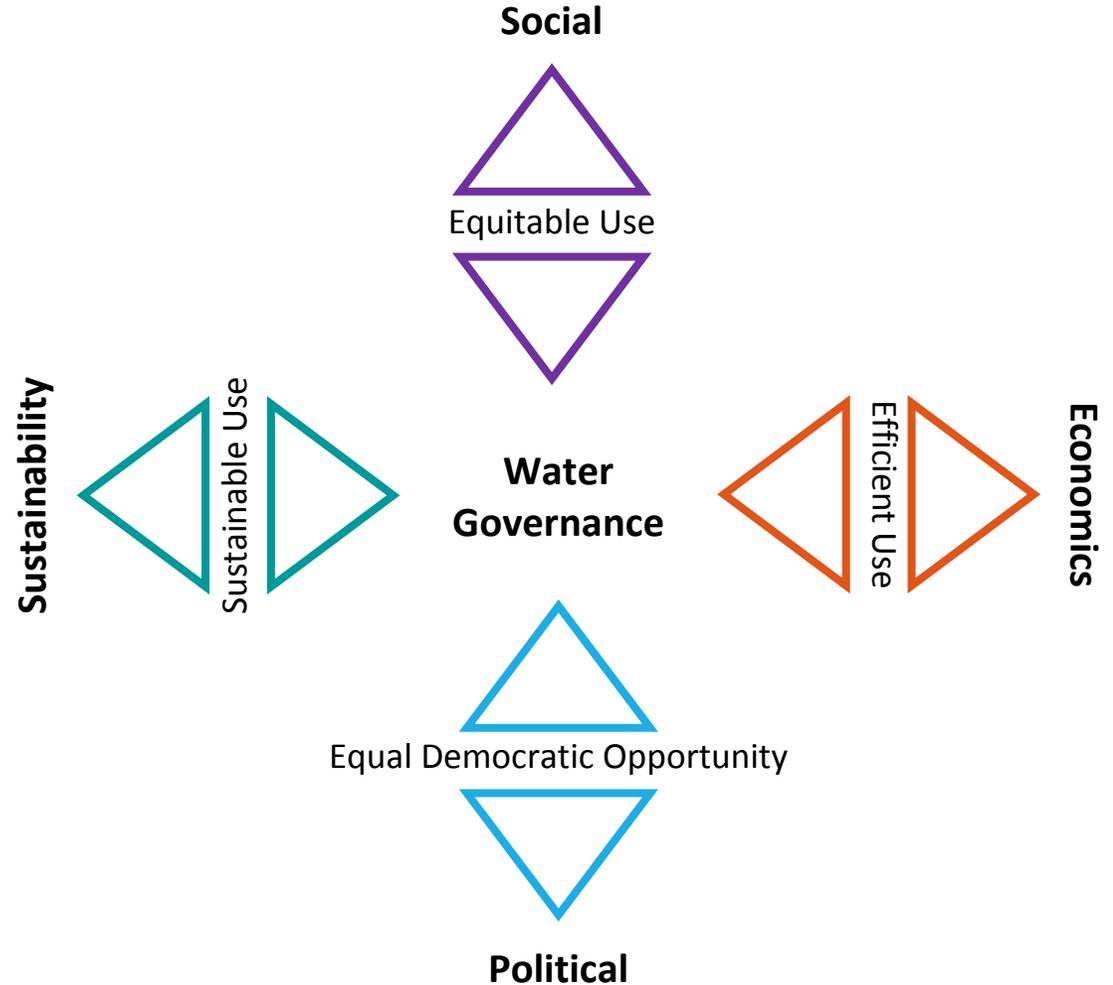
Insufficient resources

Sustainability

Changing social/environmental contexts

Political

Changes in management or ownership of water supply





General Comment No.15

The Right to Water

Adopted 20th January 2003, at 29th session of UN Committee on Economic, Social and Cultural Rights (CESCR)

- Links the right to water and adequate standard of living
- Clarifies the scope and content of the right to water
- Explains what is meant by sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses

Recognised by UN General Assembly in 2010

HRWS in International Human Rights Law

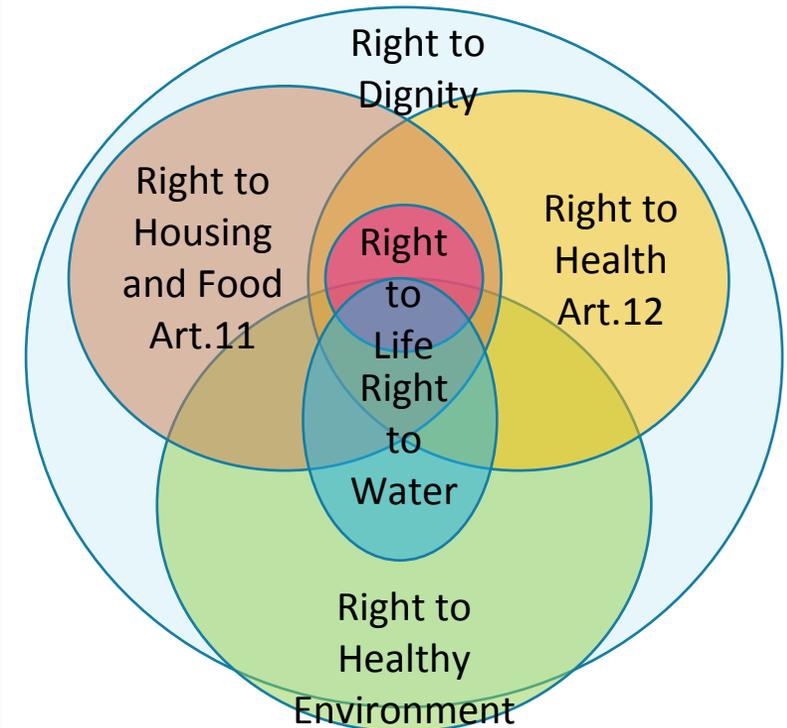


“Article 11, paragraph 1, of the Covenant specifies a number of rights emanating from, and indispensable for, the realization of the right to an adequate standard of living “including adequate food, clothing and housing”.

The use of the word “including” indicates that this catalogue of rights was not intended to be exhaustive.

The right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival. [...]

GC No. 15, Para 3





Inclusion of HRWS in constitution

Explicit

- Uruguay (first)
- DRC, Kenya, Niger, S.Africa, Ecuador, Nicaragua, Bolivia, Maldives, Peru, Slovenia

Implicit

- India – Right to Life

“The incorporation in the domestic legal order of international instruments recognizing the right to water can significantly enhance the scope and effectiveness of remedial measures and should be encouraged in all cases.

Incorporation enables courts to adjudicate violations of the right to water, or at least the core obligations, by direct reference to the Covenant.”

GC No. 15

Normative Content of HRWS

1. Normative Content	2. Procedural Guarantees
I. Accessibility	I. Non-discrimination
II. Affordability	II. Access to information
III. Availability	III. Public participation
IV. Quality	IV. Accountability
V. Acceptability	V. Sustainability

1.1 Accessibility

Accessibility concerns the **level** of access and identifies **who** has access

Physical accessibility: ...“Sufficient, safe and acceptable water must be accessible within, or in the **immediate vicinity**, of each household, educational institution and workplace.....**Physical security** should not be threatened during access to water facilities and services.”

GC No.15 Para 12(c)



The water source
has to be within
1,000
meters from home (1)



Collection time
should not exceed
30 minutes (1)

*On average,
women in Africa and
Asia walk 6 km to
collect water.*



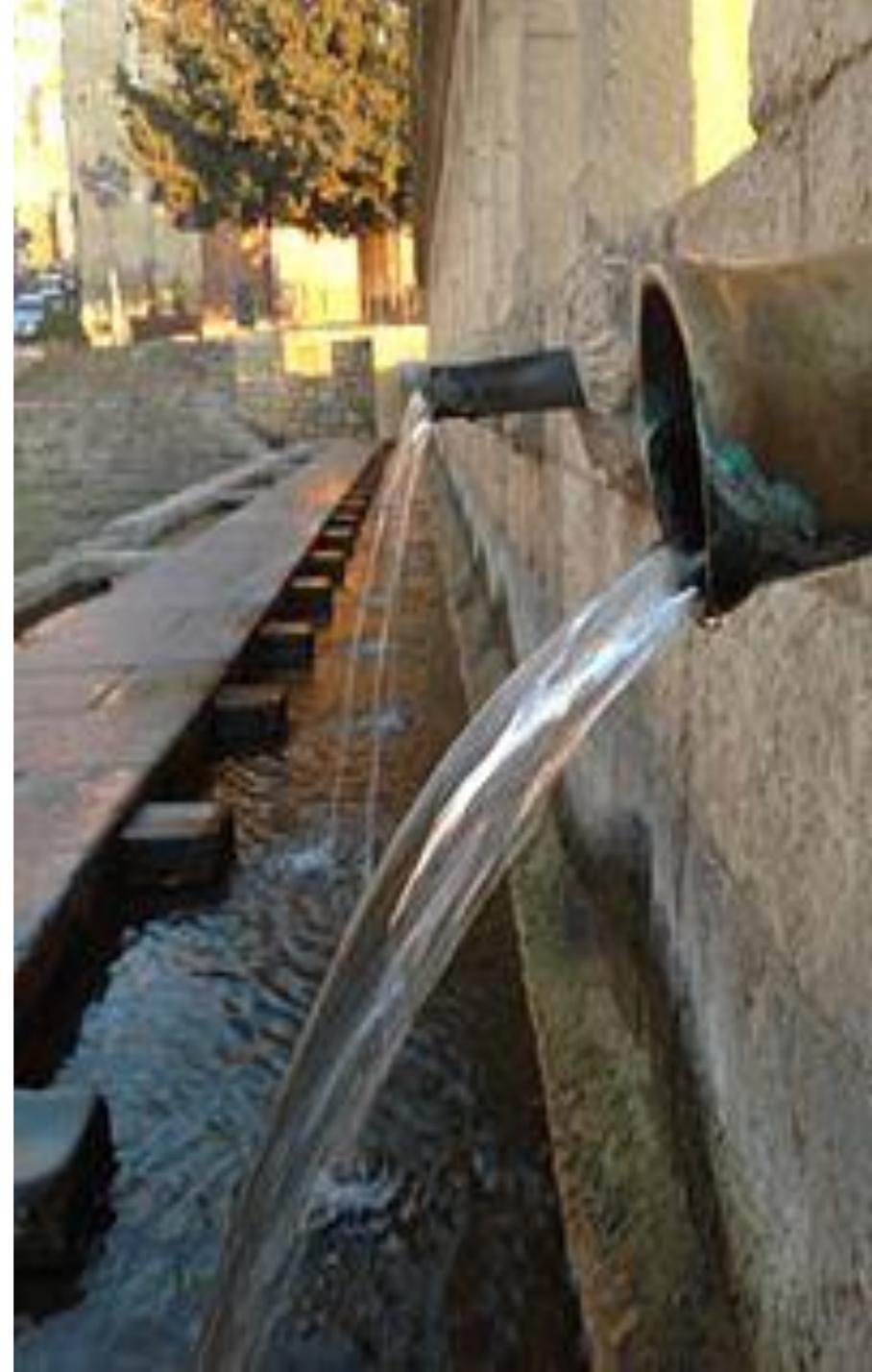
1.II Affordability

Water services must be affordable to all
States parties obliged to consider:

- low-cost technologies
- appropriate pricing policies such as free or low-cost water
- income supplements



Water cost should not exceed **3** per cent of household income (2)

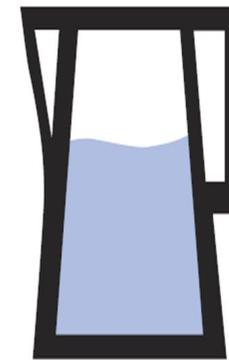


1.III Availability

Water supply for each person must be sufficient and continuous for personal and domestic uses, ...drinking, personal sanitation, washing of clothes, food preparation, and personal and household hygiene.

GC No.15 para 12(a)

- General Comment Nr. 15 does not specify **quantity**, but refers to the need for **WHO conformity**
- There must be a **sufficient number of sanitation facilities** to ensure that all of the needs of each person are met



Between
50 and 100
liters of water per person
per day are needed
to ensure most basic
needs (1)

1.IV Quality

Water must be

“...safe, therefore free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person’s health [...]

...an acceptable colour, odour and taste

GC No.15 Para 12 (b)

Sanitation facilities must be

- Safe to use and must effectively prevent human, animal and insect contact with human excreta
- Ensure safety and to protect the health of users and the community

Water for personal and domestic uses must be safe and acceptable



1.V Acceptability

Consumer based

- Characteristics e.g. odour, taste, colour
- Procedural considerations e.g. behaviour of suppliers
- Suitability for us

Culturally based

- Subjective perceptions based on:
 - Culture of individuals
 - Minority groups
 - Communities



2. Principles – a Human Rights-Based Approach

1. Normative Content	2. Procedural Guarantees
I. Accessibility	I. Non-discrimination
II. Affordability	II. Access to information
III. Availability	III. Public participation
IV. Quality	IV. Accountability
V. Acceptability	V. Sustainability

2.1 Non-Discrimination

Water and sanitation facilities must be **available to all on a non-discriminatory basis**

Priority must be given to the **most marginalized and vulnerable** to exclusion and discrimination.



2.11 Access to Information

The right to seek, receive & impart information concerning water issues

- Individuals must be aware of their rights and also know how to claim them.
- States must ensure that information relating to standards, and progress towards meeting those standards, is available and accessible.



2.III Public Participation

- **The right to participate in the decision-making process that can affect the enjoyment HRWS**
- Full, free and meaningful participation
 - in decision-making processes
 - by people affected by the decisions
- Better implementation
- Enhances effectiveness and sustainability
- Possibility of social transformation.



2.IV Accountability

States should be held **accountable for meeting their obligations** and ensuring that non-State actors respect their respective obligations.

Persons or groups who have been denied their right to water should have access to effective judicial or other appropriate remedies at both national and international levels [...]

National ombudsmen, human rights commissions, and similar institutions should be permitted to address violations of the right.”

GC No. 15 para 55

2.V Sustainability

- Future generations shall also have the right to water and sanitation
- Water and sanitation must be provided in a way that respects the environment and ensures a balance of the different dimensions of economic, social and environmental sustainability

Services must also be sustainable, ensuring that the right can be realized for present and future generations

GC No. 15 para 11



DEPUTY COMMISSIONER FOR FUNDAMENTAL RIGHTS
responsible for the protection of the interests of future generations

Tools for realising Human Rights to Water and Sanitation

- No silver bullet
- Country Legal Mapping – **gap** analysis
- Mapping of vulnerable people:
 - **Who**
 - **Where**
 - **How** can we identify them
 - **What** can we do to recognise them?
- Progressive Realisation through **HRBA**



Progressive realisation



- Must take immediate steps
- Priority given to ESC Rights
- Continual progress