

The Human Right to Water

- Water is a human right as enshrined in the Constitution.
- It is essential to the survival of all life on earth, including humans. It is essential to the existence of livelihoods, societies, and ecosystems.
- However, its access and availability are under threat from climate change and the increasing demand from a growing population and poor water management.
- On 28 July 2010, the United Nations General Assembly explicitly recognised the human right to water and sanitation and acknowledged that clean drinking water and sanitation are essential to the realisation of all human rights.¹
- The lack of access to potable water violates people's dignity.
- Further from a human rights perspective, the right to water (and sanitation) is essential for the eradication of poverty and inequality and the lack of access to water compromises all poverty and inequality alleviation strategies.
- Water and poverty are inextricably linked.
- Water is a critical resource for the poor and plays a key role in many aspects of their livelihoods.
- Additionally, a lack of access to water greatly impacts other rights, such as the right to food, a healthy environment, health, and education.
- This impact is disproportionately effects women, girls, people with disabilities and other vulnerable groups.

The Sustainable Development Goals

- The Sustainable Development Goals (SDGs) emanate from the 2030 Agenda for Sustainable Development, which is a broad plan of action for 'people, planet and prosperity' articulated through the SDGs.
- The SDGs are broad aspirations for achieving the 2030 Agenda, through 17 goals, 170 targets and 230 indicators.
- The Sustainable Development Goals were also optimally designed to take forward and improve on the Millennium Development Goals, which had not been greatly successful in its aim of improving the lives of the world's poorest people.

¹ Resolution 64/292.

- The 2030 Agenda recognises the centrality of water resources to sustainable development and the vital role that improved drinking water, sanitation and hygiene play in progress in other areas, including health, education, and poverty reduction.
- Importantly, SDG6 goes beyond drinking water, sanitation and hygiene to also address the quality and sustainability of water resources, which are critical to the survival of people and the planet.

Sustainable Development Goal Six

- SDG 6 calls on States and people to “ensure availability and sustainable management of water and sanitation for all.” Some of the notable targets under goal 6 include:
 - i) By 2030, achieve universal and equitable access to safe and affordable drinking water for all;
 - ii) Achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations;
 - iii) Improve water quality by reducing pollution, eliminating dumping, and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally;
 - iv) Substantially increase water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water scarcity and substantially reduce the number of people suffering from water scarcity and;
 - v) Support and strengthen the participation of local communities in improving water and sanitation management.²
- In 2016, the Human Rights Council adopted a resolution where it expressed concern at the negative impact that a lack of access to water and sanitation and hygiene has on health and mortality.³
- The Council has also recognised the challenges faced by women and girls in accessing water and sanitation, particularly during their menstrual cycle, and that the deprivation of the right, reinforces widespread stigma associated with menstruation.
- This in turn often impacts on both the right to education and health.⁴

² <<https://www.un.org/development/desa/disabilities/envision2030-goal6.html>>

³ UN Human Rights Council *The human rights to safe drinking water and sanitation* A/HRC/33/L.19 (2016).

⁴ Ibid.

- The resolutions highlighted above, require States to work towards universal access for all to water, without discrimination, using human rights-based service delivery as a basis for the provision of this resource.
- This includes availability, accessibility, affordability, quality and safety, acceptability and more.
- Globally, three out of ten people do not have access to safe drinking water.
- Almost half of people drinking water from unprotected sources live in Sub-Saharan Africa.
- Six out of ten people do not have access to safely managed sanitation services, and one out of nine practice open defecation.⁵
- The duty lies with various role-players to realise the goal and targets of SDG 6.

Challenges in Water Service Delivery

- Water usage is increasing due to population increase and irrigation expansion. Water use has been increasing worldwide by about 1% per year since the 1980s, driven by a combination of population growth, socio-economic development and changing consumption patterns.
- Global water demand is expected to continue increasing at a similar rate until 2050, accounting for an increase of 20 to 30% above the current level of water use, mainly due to rising demand in the industrial and domestic sectors.
- Discrimination: direct (laws, policies, and practices) and indirect discrimination – for example through a lack of provision in schools and the impact on girls. (I have examples from our public hearings).
- Governance: poor governance structures mean that there is a lack of accountability, transparency, access to information and more. Because the State cannot provide water to all at a local level, as it is often more involved in the development of legislation, policies and programmes, there is a lack of effective governance – particularly when private sector companies are tasked with service delivery. Good governance relates to systems that have qualities of accountability, transparency, legitimacy, public participation, justice, and efficiency and therefore overlaps with the principles of the HRBA. Good water governance involves measures and mechanisms that promote effective policy implementation along with sanctions against poor performance, illegal acts, and abuses of power. Holding decision-makers accountable requires ability,

⁵ <https://unesdoc.unesco.org/ark:/48223/pf0000367306/PDF/367306eng.pdf.multi>.

willingness, and preparedness among rights-holders (or their representatives) to scrutinise actions and non-actions. This in turn builds on transparency, integrity, and access to information.

- Economic factors: the requirement of payment and the lack of availability of funds for poorer communities and indigent households. For example, in South Africa, local government funds are allocated through the equitable share and gathered through revenue. This is not sufficient to meet the needs of communities, particularly poor communities.
- Urban-rural divide: there is a critical need for provision of services in rural areas. Often, rural areas are neglected and lack capacity, skills and resources for service delivery. This urban-rural divide exacerbates poverty and inequality.
- Poor planning: municipalities do not have a APPs and/or maintenance plans for their water infrastructure. Municipalities are often unaware of the state of infrastructure or service delivery in their respective constituencies and lack the will, skills, resources or more to conduct the requisite audits to ensure improved planning.
- A lack of political will.

The HRBA Case for Business

- According to the OHCHR, "Under a human rights-based approach, the plans, policies and processes of development are anchored in a system of rights and corresponding obligations established by international law. This helps promote the sustainability of development work, empowering people themselves – especially the most marginalised – to participate in policy formulation and hold accountable those who have a duty to act".
- A human rights-based approach (HRBA) to service-delivery advocates for the fundamental standards, principles, and criteria of human rights frameworks.
- These include non-discrimination and participation that is active, free, and meaningful, as well as representation by and for people in disadvantaged or vulnerable situations. It also includes mechanisms for access to information, transparency, and accountability – and in many cases, a grievance mechanism.
- In addition to the moral imperative of companies to integrate a HRBA to business, it has found to be good for business.
- In rethinking its position in society as a role-player in economic, social, and environmental development and a member of a community, the discourse on BHR

progressively evolves so that it benefits all role-players. According to the OHCHR, this approach can result in the following:

- Improved stakeholder relations.
- Improved employee recruitment, retention, and motivation.
- Improved risk assessment and management.
- Reduced risk of consumer protests.
- Enhanced corporate reputation and brand image.
- A more secure license to operate.
- Strengthened shareholder confidence.
- More sustainable business relationships with governments, business partners, trade unions, sub-contractors, and suppliers.
- The Commission has also noted a greater buy-in to projects by communities, when companies are transparent, approachable, accountable, and engaging. This leads to more sustainable projects and businesses.
- Ultimately, it is in the interest of all role-players, including the private sector to commit to a HRBA to service delivery of water and sanitation. This approach has shown to reach have the most effective, equitable and sustainable outcomes for communities, countries and society as a whole.