

# Emerging Practice and Expectations Regarding the Human Right to Water

**Jason Morrison**

Pacific Institute

Oakland, California

April 14, 2010



**PACIFIC  
INSTITUTE**

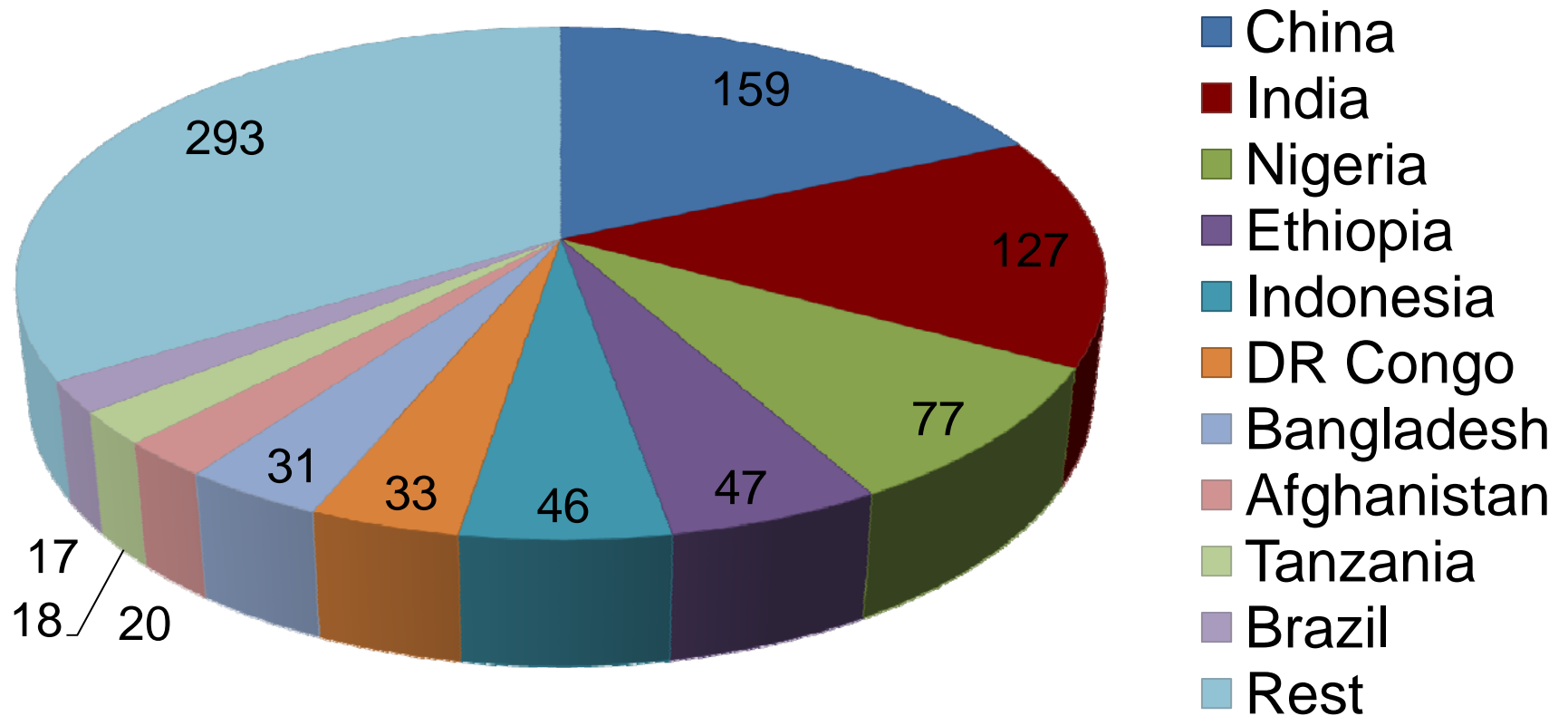
Research for People and the Planet

# The Mandate's Three Main Workstreams

- Water disclosure
  - Transparency Framework
  - Water Disclosure 2.0
  - COP-Water Analysis
- Policy engagement
  - From Water Footprinting to Public Policy
  - Guide to Business Engagement in Water Policy and Management (forthcoming)
- Water and human rights
  - Exploring the Roles and Responsibilities of Business
  - Compilation of Endorser Practice



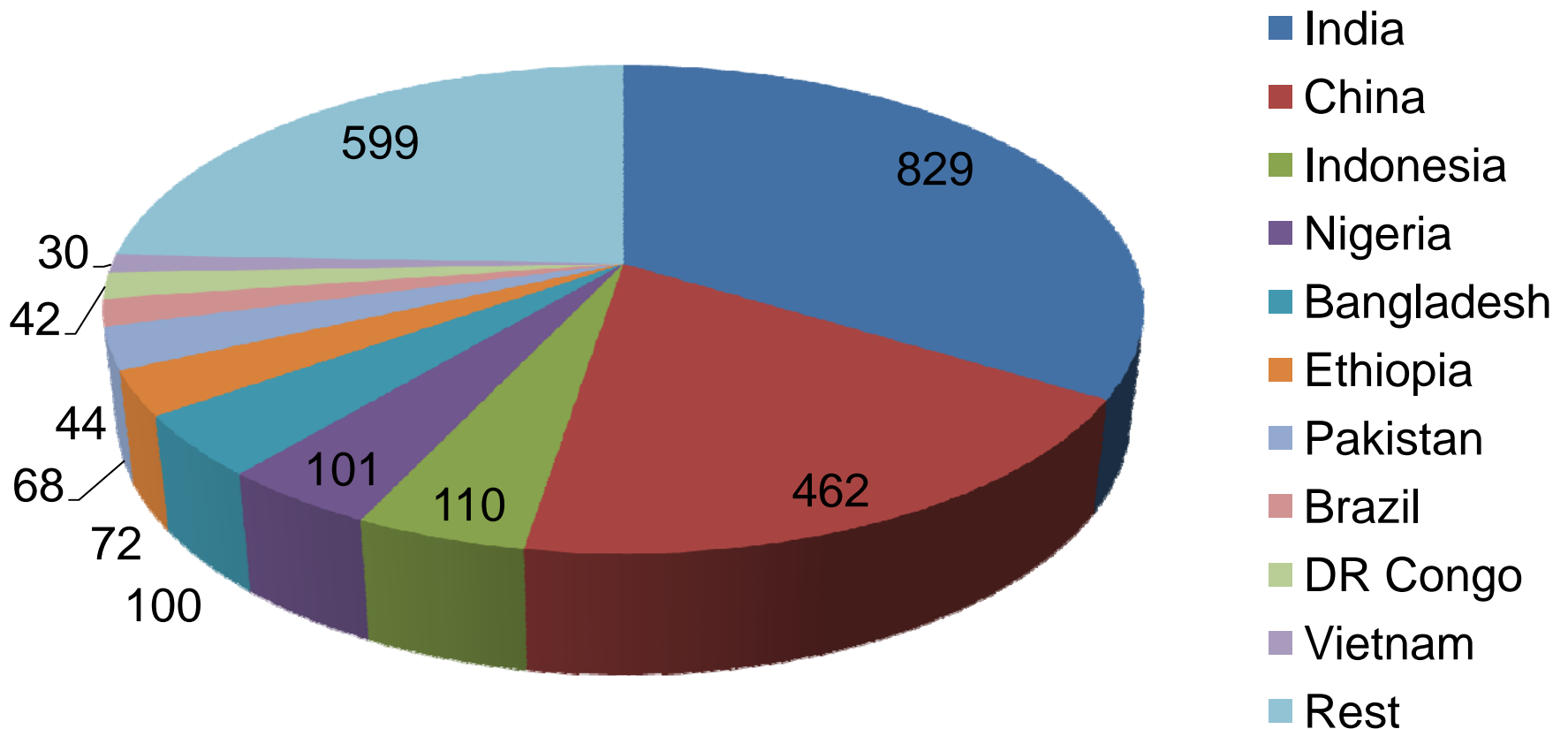
# Numbers Without Improved Water Supply



Total is 867 million

Source: Paul Edwards, UNICEF 2008

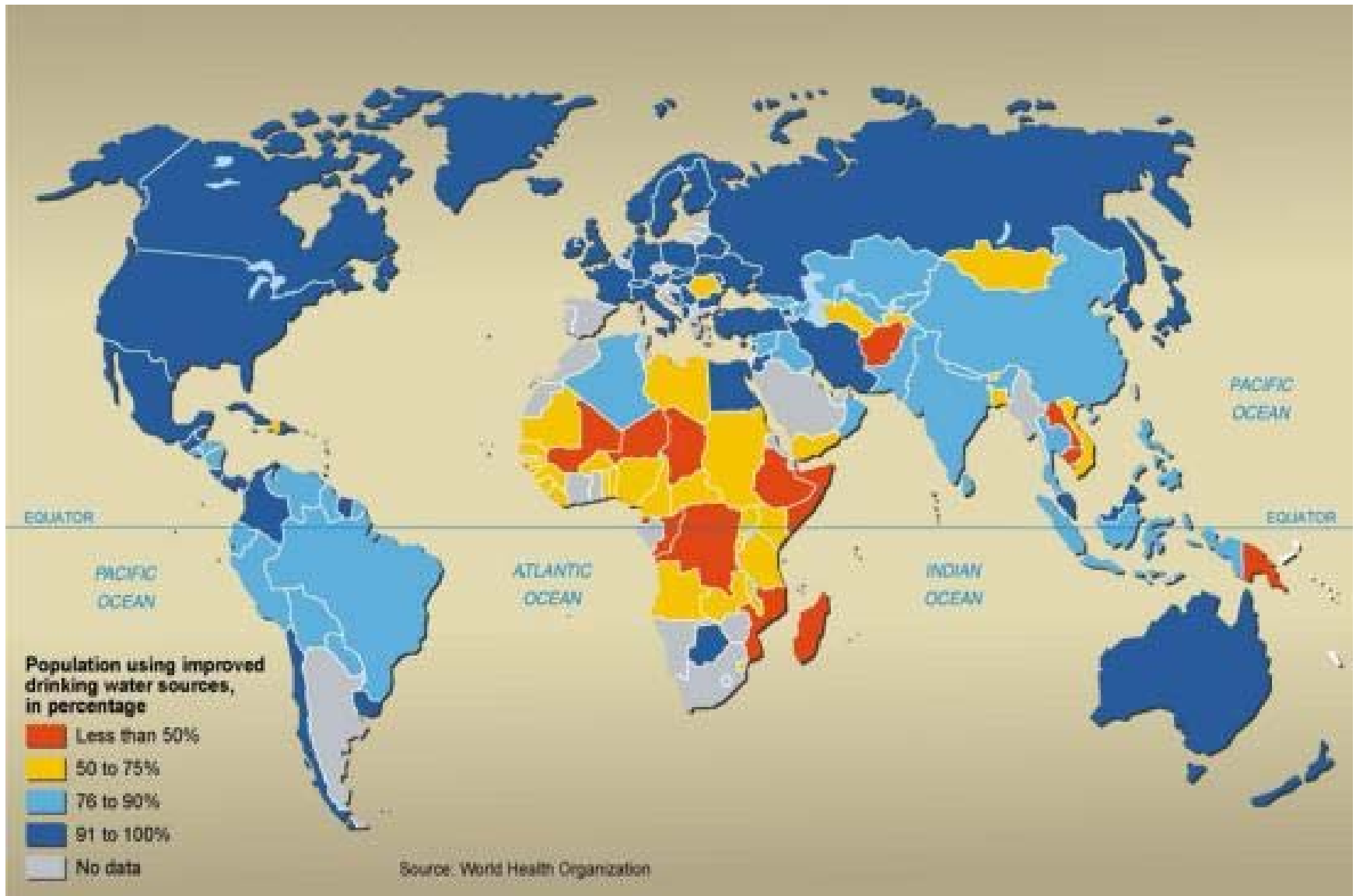
# Numbers Without Improved Sanitation



Total is 2,457 million

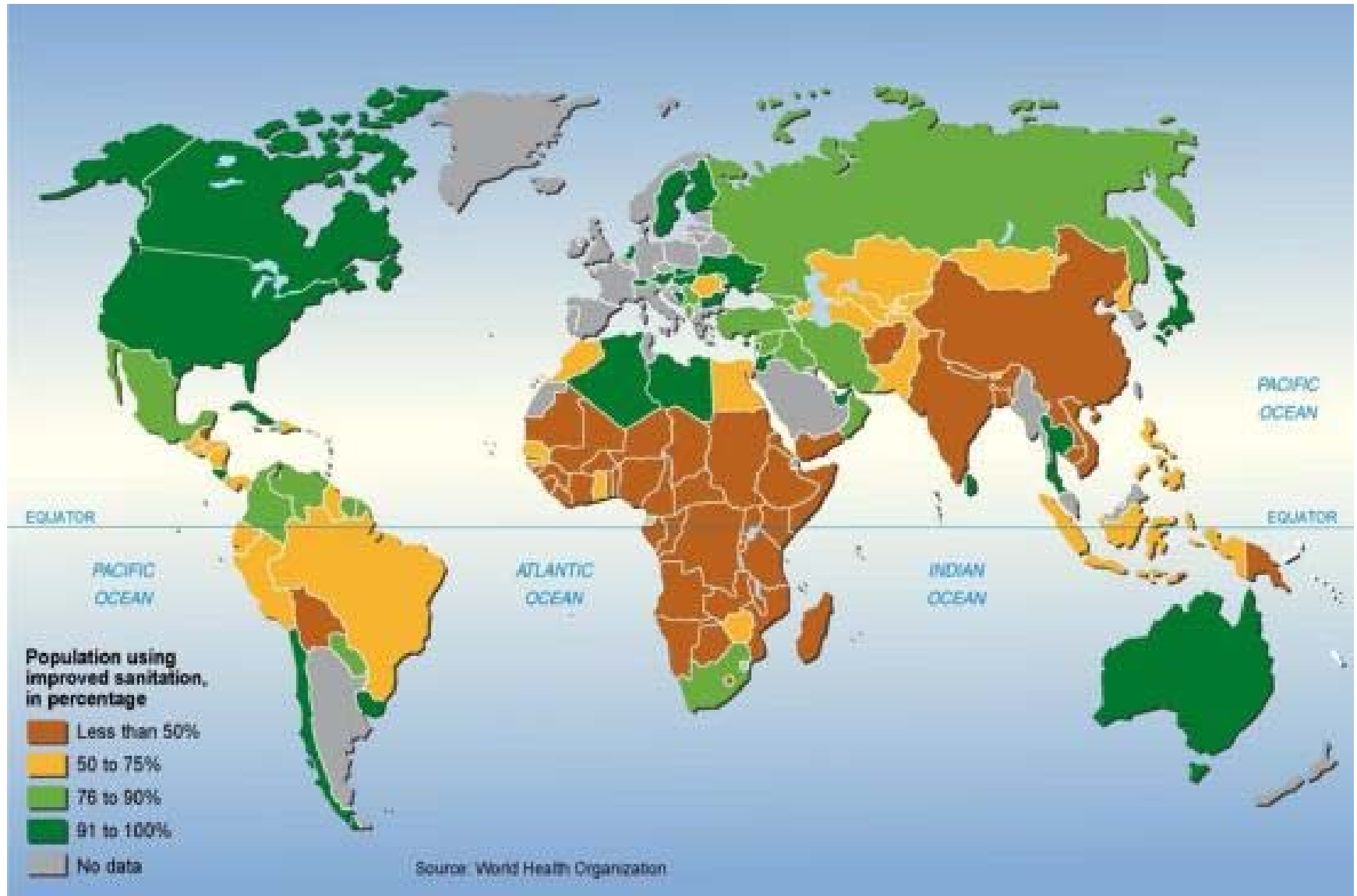
Source: Paul Edwards, UNICEF 2008

# Global access to improved drinking water



Source: World Health Organization

# Global access to improved sanitation



Source: World Health Organization

# History of the human rights workstream

- At the Mandate's second conference (Stockholm 2008), attendees identified the human right to water as a key challenge in implementing best practice on water.
- In response, the Mandate held a discussion on this topic at conferences in Istanbul and Stockholm (2009).
- In advance of the Istanbul meeting, the Mandate released a discussion paper that explored would it mean to adhere to Ruggie's "corporate responsibility to respect" principle in the context of water.
- Established Human Rights Working Group

# Compilation of Endorser Practice on the Human Right to Water

In Stockholm (2009), endorsers asked for a compilation of company practice on the human right to water to:

- *Determine what companies are doing on the ground in regard to this topic*
- *Elucidate companies' perception of responsibility boundaries and best practice*
- *Serve as the basis for developing a Mandate operational guidance and/or principles regarding business and the human right to water.*



# The Ruggie Framework

The Ruggie Framework provides a conceptual and policy framework on the private sector's role in human rights. It is built around three core elements:

- The public sector has a **duty to protect** human rights, including against abuses by third parties (e.g. businesses),
- The private sector has a **responsibility to respect** human rights,
- There must be **access to remedies** when human rights abuses occur.

*In this context, “respect” means to conduct due diligence that ensures companies do not infringe on the rights of others.*

# Operationalizing the Responsibility to Respect

To “respect” means to **proactively** conduct an ongoing **due diligence** process that:

- *Establishes a human rights policy*
- *Assesses human rights impacts of company activities*
- *Integrates those values and findings into corporate culture and management systems*
- *Tracks and reports performance*

# Defining the Responsibility to Respect (2)

Due diligence considers three (and possible more) essential factors:

- *The **political and societal context** in which companies operate*
- *The company's **impacts** within that context*
- *Whether the company **contributes to abuse** through relationships connected to their activities*

# Ruggie's Current Work

- Continued use of regional, sectoral, and multi-stakeholders consultations and legal workshops
- Report detailing human rights expectations of companies under national corporate law in various jurisdictions
- 12-month pilot project to test grievance mechanisms
- Further operational guidance on the corporate responsibility to respect, including:
  - *How responsibilities change depending on business role (e.g. water user, investor, etc.) and size of company*
  - *Whether due diligence processes should be “free-standing” or incorporate into existing activities*
- Final report to UN Human Rights Council in 2011

# UN Independent Expert on Human Rights and Water Services

UN OHCHR also nominated an independent expert – Catarina de Albuquerque – to explore human rights obligations with respect to [access to safe drinking water and sanitation](#)

Among other things, she will build upon the Ruggie Framework to determine the [responsibilities of private companies participating in the delivery of water and sanitation services](#)

As part of this process, she has held one public consultation on this issue and is holding another this week.

Her final report will be presented the UN Human Rights Council in [September 2010](#)

# The Institute for Human Rights and Business

IHRB intends to play a significant role in this space, focusing on three thematic tracks with relation to water:

1. *Land acquisition*
2. *Water management*
3. *Land and water use*

It will promote good practice through:

- *Position papers*
- *Multi-stakeholder convenings*
- *Capacity building for business*
- *High-level advocacy with governments and businesses*
- *Principles / guidelines / standards for business*

# Endorser Survey: Key Conclusions

1. **Willingness to respect:** Many, if not most, companies generally (and openly) accept the responsibilities established in the Ruggie Framework
2. **Lack of formal policies or processes:** Most companies do not have a formal policy committing to “respecting” the human right to water or process for implementing it into their operations.

# Key Conclusions (cont.)

3. **Lack of understanding:** The biggest hindrance to companies' ability to “respect” is their lack of understanding of what specific actions they can take in support of this.
4. **Link between efficiency and “respecting”:** Numerous companies believe that actions that improve water efficiency / savings / conservation are enough to fulfill their human rights responsibilities.



# Key Conclusions (cont.)

5. **Social impact assessments are underdeveloped:** Few companies know how to effectively assess when/how their water use/discharge has social impacts or when they are infringing upon the human right to water.
6. **Data is a limiting factor for some:** Many companies highlighted the need to extend data collection practices across their operations and develop standards for watershed data metrics.

# Degrees of corporate action

Responses suggested three sphere of action, while providing some initial ideas of what might fall under those categories.

## Abuse

- Immediate harm from corporate activities
- Complicit in actions that infringe on rights
- Block stakeholder participation

## Ruggie Compliance

- Due diligence / “Respect”
- Proactively assess and manage impacts
- Transparency

## Beyond responsibility

- Community projects
- Policy engagement
- Advocacy

# Other responses

*Companies that explicitly acknowledge the human right to water*

**2**

*Does your company deem “do no harm” sufficient to meet the corporate responsibility to respect the human right to water?*

**29%**

*Has your company made public commitments to implementing actions, establishing measurement capabilities, and/or reporting publicly on progress regarding the human right to water?*

**33%**

*Has your company attempted to delineate the boundaries of corporate responsibility with regard to the human right to water?*

**16%**



**PACIFIC  
INSTITUTE**

Research for People and the Planet

**Jason Morrison**

Pacific Institute  
654 13<sup>th</sup> Street  
Oakland, California 94612  
(510) 251-1600

*[www.pacinst.org](http://www.pacinst.org)*