

The Right to Water More than just a “Good Idea”*

Remarks & Preliminary Responses to IHRB Report

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AquaFed

THE INTERNATIONAL FEDERATION OF
PRIVATE WATER OPERATORS

CEO Water Mandate – Business and the Human Right to Water and Sanitation

Stockholm – 25th August 2011

* C de Albuquerque, UN General Assembly, July 27 2011

Our commitment

- **We are water professionals. We are not human rights experts but implementers of a specific human right: Our job is implementation and delivery of the HRWS as mandated by governments**
- **“Making the HRWS a Reality” has been our consistent message (see our many publications)**
- **Thank you for recognising the commitment of private water operators to the Right to Safe Drinking Water and Sanitation**

IHRB Paper - View from a Private Water Operator's Perspective

- **On the plus side:**
 - Pleased to have been consulted
 - See the value in the initiative and recognise the work completed
 - Have been able to make some comments - limited
 - See this a platform to build from
- **We have some reservations:**
 - There is a need to align the human rights “theory” with realities and constraints of “delivery”
 - Human rights approaches must support action and improvement not hinder it
 - Respective legitimacies of authorities and operators should be included

Water & Sanitation as a “Business”

- **“regulated” and “non-regulated” water services**
 - Regulated = under ultimate political control
 - Non-regulated = state has abdicated all responsibility and control
- **An atypical business**
 - Public service – essential good – natural monopoly
 - Regulated operators do not control prices & can’t pass through costs without state approval. Prices not fixed by the market
 - Implementers of a human right, the right to water and sanitation
- **Active right – requires delivery**
 - Important differences between water supply & sanitation
- **Individual vs Collective**
- **Operations – State & Non-State operators face the same “business & HRWS” challenges**

Aligning a “Rights” view with “Water Experts” view

Human Right

Water Expert

Availability

Sufficient quantity
Regularity / Continuity



Volume sufficient for purpose
Pressure, 24/7

Quality

Safety
Acceptability



Drinking water standards (WHO)
Taste, colour, odour

Accessibility

Physical
Economic



Reachable, Safe, etc.



Affordable charges, Support

Non-discrimination

Equity



Available to everybody

Responsibilities

Pg. 11 - "It is a norm that applies to business whatever States do or fail to do" ?

A public authority and its operator are interdependent. If the Public Authority fails in key obligations (raw water provision, investment obligations, sustainable finance, prohibited areas) etc. the operator may have no remedy.

"Best endeavours" may not be seen as adequate to avoid an alleged HRWS infringement

See also Pg. 20

A fair analysis but practical suggestions are needed

Due diligence

- Why only focus on the “negative” , “adverse” & “harm” ?
Delivery of an essential public service has real “positive” & “beneficial” dimensions. Public policies have to strike a balance between conflicting constraints.
- Pg. 23 - *The value of Data*
The absence of data is a cause of system failure that leads Public Authorities to call in a private operator.
Create baseline data, consult by gender etc. Can only be done over time and within a contract not before.
- Pgs. 32–39 *“Due diligence for service providers”*
A fair list of issues, workable solutions have to be developed, which is a major task in front of us all.

“Complicity” ?

- Page 25. Regulated operators must respect political choices and implementing instructions. Operators are faced with many “Catch 22” or “Damned if you do and damned if you don’t” situations. How can human rights application overcome these to promote better access to water and sanitation?
- Legitimacy: how can a private operator (mandated by a government) resist political arbitrages that address complex issues ?
- Abusive claims under human rights can cause harm to many in the interests of the few.

Conclusion

- The paper does not yet meet the CEO Mandate objective *“The mandate is in the process of developing operational guidance that identifies companies' responsibilities with respect to the right to water and elucidates a process by which they can fulfil those responsibilities” – “... Also concretely explain what they can do to manage...”*
- Human Rights theory and the messy world of reality have to be brought together in a way that maximises the opportunity for business to do good as well as to avoid harm

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The real size of the challenge

- AquaFed estimates that 3 – 4 billion people do not enjoy all aspects of the right to drinking water :
 - Availability, Safety, Acceptability, Accessibility (including reliability), Affordability, Non-discrimination
- Sanitation needs are of same magnitude
- All the population growth in coming decades will be urban, but “urban regression” is occurring
- MDG 7 (between 2000-2008)
 - Urban water: *114 million more people without*
 - Urban sanitation : *134 million more people without*

Global trends between 2000 & 2008

Change of population (millions)...		Urban half	Rural half
Safe Water	without access to permanent tapwater (running water)	<i>Not monitored</i>	
	without access to tapwater	+114 	-24 
	without access to "improved" sources	+13 	-188 
Sanitation	without wastewater treatment	<i>Not monitored</i>	
	without wastewater collection	<i>Not monitored</i>	
	without private sanitary toilets (= "improved" sanitation)	+134 	-69 
	without toilets (Open defecation)	+7 	-129 

Convergence of RtWS & MDGs

- **More ambitious goals need to be set for the post - 2015 period to advance the RtWS**
- **More ambitious objectives pose:**
 - an international political challenge
 - a national political challenge
 - a monitoring challenge
 - a resources challenge
- **Implementing human rights is “more than a good idea”***: * C de Albuquerque, UN General Assembly, July 27 2011
 - a legal requirement for countries that recognise it
 - a moral imperative
 - an economic necessity
 - the job of water professionals

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