



## Engaging with Governments on human rights and water

15 April 2010, New York

### Three main inter-related public policy arenas

When considering the relationship between business, human rights and water, the Institute has taken three inter-related tracks:

- Water Management (utilities and technology)
- Water Use (agriculture)
- Water Use (non-agriculture)

## The right to water: definition

“ The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements.”

*(UN Committee on Economic, Social and Cultural Rights: General Comment 15)*

## But why?

Why should we think about water in human rights terms – when it is already well understood as an environmental and development issue?

- All collectively realized, the focus on the individual is key
- Recognizes and respects the inherent dignity of every human
- Start with the most vulnerable (i.e. not a utilitarian ethic)
- The need for legal and non-legal remedies
- The right to water transcends any counter-veiling political, developmental or environmental consideration or power relationship
- States need to hold each other to account, as well as business
- Rights are inter-related: link to the right to health, right to food, right to life, right to housing, right to information, non-discrimination, gender, child rights, indigenous peoples or other rights.

## UN Business and Human Rights Framework

The following framework has been welcomed by all states on the UN Human Rights Council and beyond:

“ The framework rests on three pillars: the State duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication; the corporate responsibility to respect human rights, which in essence means to act with due diligence to avoid infringing on the rights of others; and greater access by victims to effective remedy, judicial and non-judicial. The three pillars are complementary in that each supports the others.”

*(Professor John Ruggie, UN Special Representative, 2008 and 2009 Reports)*

## A global baseline for business responsibility relating to water management and the right to water

*Must*

• ----- **Where do you draw the line?** ----- •

- Safe drinking water
- No arbitrary disconnection
- Non discrimination/universal access in a territory
- No degradation of quality or supply
- Increase water quality (WHO Standards)
- Effective and timely remedies (i.e. within hours)
- Grievance mechanisms
- Human rights in all contracts (PPPs, JVs)
- Right to information and disclosure

*Should*

## The 800lb (362.88kg) gorilla - regulation

- The state has the obligation to fulfill the right to water universally through progressive realization: what extra responsibilities does this place on a water management or technology company in relation to the billions without sustainable access to safe clean drinking water?
  - How is this structured?
  - How is it financed?
  - What are the human rights safeguards?

## Engaging with Governments to agree the baseline

### *Examples of Governments in multi-stakeholder approaches:*

- Extractive Industry Transparency Initiative
- Kimberley Process (Diamonds)
- Voluntary Principles on Security and Human Rights (Extractive Sectors)
- Montreux Principles on Private Military Companies

### *Examples of non-state multi-stakeholder approaches:*

- Fair Labor Association (Apparel Sector)
- Global Network Initiative (Internet Service Providers)

### *Examples of business-led processes with public policy impact:*

- Electronics Industry Code of Conduct
- Business Leaders Initiative on Human Rights
- Athens Principles relating to Recruitment Agencies

## Contracting with Governments on water



*Public Private Partnerships (PPPs) and Joint Ventures (JVs) need to contain:*

- Reference to baseline issues
- Explicit reference to human rights due diligence
- Explicit reference to grievance mechanisms
- Careful consideration of social impacts of 'stability clauses' and the transparency of arbitration
- Governments need national development plans for progressive realization of the universal fulfillment of the right to water

## Advocacy with Governments on water



*Consideration for the right to water in:*

- States must maintain the role of steward and duty-bearer
- Tendering of water management to private sector
- Regulation of state-owned enterprises and SMEs
- Trading of water rights (not just environmental imperative)
- Business benefits of good governance – policy making and regulation
- Governance principles: transparency, accountability, protection of the most vulnerable.

## Engagement with Local Authorities



*Bridging national and local governmental duty:*

- The localization of environmental responsibility
- The non-localization of human rights responsibility
- The bridging role of human rights impact assessments
- An 'Agenda 21' for human rights and local responsibility
- Rights-based approach to community engagement