The recognition of the human right to water and sanitation – What does it mean for companies?

CEO Water Mandate Working Conference, Cape Town, 16 to 17 November
Inga Winkler
The recognition of the right to water and sanitation

- Resolution of the UN General Assembly, A/RES/64/292, 28 July 2010
  - “Recognizes the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights”

- Resolution of the UN Human Rights Council, A/HRC/RES/15/19, 30 September 2010
  - “Affirms that the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity.”

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The legal basis of the right to water and sanitation

- **Right to an adequate standard of living** as enshrined in the International Covenant on Economic, Social and Cultural Rights and other human rights treaties
  - **Art. 11(1) ICESCR**: The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living (...), including adequate food, clothing and housing (...).
  - **Art. 14(2)(h) CEDAW**: States Parties ... shall ensure to such women the right ... to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.
  - **Art. 28(2)(a) CRPD**: ... ensure equal access by persons with disabilities to clean water services ...
The recognition of the right to water and sanitation

- These resolutions end a long lasting discussion whether water and sanitation is a human right.
- The resolution of the HRC was adopted by consensus.
- It shows that the right to water and sanitation is legally binding.
- It has the same status as all other human rights.
Recognition of the right was just the first step

Now it is time to turn to the real challenge:

The implementation of the human right to water and sanitation
The Mandate of the Independent Expert

- Created by a resolution of the Human Rights Council in March 2008
- "UN Independent Expert on human rights obligations related to access to safe drinking water and sanitation"
- Catarina de Albuquerque was appointed in September 2008
- Took up her work in November 2008
- Part of the UN Special Procedures
The Mandate - Tasks

- Identify, promote and exchange views on good practices related to access to safe drinking water and sanitation, and to prepare a compendium of good practices.

- Clarify the content of human rights obligations in relation to access to safe drinking water and sanitation.
  - 2009: Sanitation
  - 2010: Involvement of non-State actors in service provision
  - 2011: National Plans of Action for the realization of right to water and sanitation

- Make recommendations that could help the realization of the Millennium Development Goals, in particular Goal 7.
The Mandate - Tasks

- Tasks common to all Special Procedures
  - Country missions (2 to 3 per year)
  - Letters of Allegation and Urgent Appeals
  - Press statements – in cases of urgency or on specific dates

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Human rights obligations and responsibilities

- States are the primary duty-bearers
- They have to progressively realize human rights towards achieving universal access to water and sanitation
- Ruggie Framework: Protect, Respect and Remedy
- Companies have to respect human rights
- They are required to exercise due diligence “to become aware of, prevent and address adverse human rights impacts” (Ruggie Report 2009, Para. 59)
Companies and the right to water and sanitation

- Impact on the right to water and sanitation in their core activities, e.g. as water users
- Undertake voluntary initiatives aiming to contribute to the further realization of human rights
- Act as service providers as part of their core business
Content of the Right to Water and Sanitation

AVAILABILITY:
- Limited to personal and domestic uses
- Supply for each person that must be sufficient for these purposes

QUALITY:
- Water has to be safe for consumption and other uses
- Sanitation facilities must be hygienically and technically safe to use
Content of the Right to Water and Sanitation

- **ACCEPTABILITY:**
  - Often require gender-specific facilities
  - Constructed in a way that ensures privacy and dignity

- **ACCESSIBILITY:**
  - In the household or its vicinity
  - On a continuous basis
  - Physical security must not be threatened when accessing facilities

Photo courtesy of WSSCC
Content of the Right to Water and Sanitation

- **AFFORDABILITY:**
  - Must not compromise the ability to pay for other essential necessities guaranteed by human rights such as food, housing and health care.
Human Rights Principles

- **Non-Discrimination**
  - Not discriminate against certain parts of the population
  - Particular focus on the most vulnerable and marginalized

- **Participation**
  - Engage with communities in decision-making processes
  - Helps to ensure the sustainability of projects

- **Accountability**
  - Setting up grievance mechanisms
Conclusion

- Companies have to respect the right to water and sanitation
- They can promote the right through their activities
- Companies should seek partnerships with other stakeholders
  - Engage with the communities concerned
  - The State as the primary duty-bearer
  - And other relevant stakeholders
- They can contribute to realizing the vision of water and sanitation for all
Thank you!

More information on the mandate of the Independent Expert:

www2.ohchr.org/english/issues/water/iexpert