

THE IMPORTANCE OF THE RIGHT TO WATER IN EFFECTIVE WATER SERVICE DELIVERY: LESSONS FOR NIGERIA

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ABSTRACT

The paper outlines some of the key considerations around the impacts right to water has on the effective delivery of water services in poor communities using literature and contextual analysis. The focus is now how the right affects responsibilities or relationships between different stakeholders, whether they are partners in delivery or user. The results shows that in the international arena, access to water was explicitly identified as a basic human right by the United National Economic and social Council in their 2002 General Comment of No 15 and is a Central component of the Millennium Development Goals. The right to water has been recognized and incorporated into the National Legislation of over fifteen countries, and is reorienting government policy in countries as diverse as Kenya and Uruguay. Many prominent development agencies are also placing increasing emphasis on a right based perspective to water and sanitation in their work. Given the complexity of the subject and the wealth of new developments within it, this overview is not exhaustive. It is intended to signpost unexplored area and highlights the potential of the right as a catalyst for greater cooperation in the water sector in Nigeria.

KEYWORDS: *Catalyst, Right, Service, Water, Human right*

INTRODUCTION

The right to water is explicitly supported by two important international human rights agreements, the Convention on the Elimination of all forms of Discrimination against Women (1979), and the convention on the Rights of the Child (1989), as an essential element in the achievement of the right to housing and the right to health. More fundamentally, as a precondition for human survival, it is also implicit in the 1948 universal Declaration of rights, with its guarantees to the right to life. Furthermore, the right to water was recently reinforced by the United Nations Committee on Economic Social and Cultural Rights in the General comment No15: the right to water (2002).

This paper affirms that the right to water falls within the mandate of the International Covenant on Economic Social and Cultural Right (1966). There is still disagreement about whether access to water is itself a right or only related to other rights. Many countries still regard it as human need, but not a right. However, while water is essential for survival, 884 million people still lack access to water and 2.6 billion access to sanitation and this failure is rooted in politics, among other issues. The difference between regarding water as a right and as a need is not merely semantic. To call this a failure of human needs is to acknowledge the gravity of the situation. To recognize it as a failure of human rights, on the other hand, is to also accept the responsibility that our countries and other organizations have to change it by shifting current political priorities.

Creating Clarity and Cohesion through Rights Based Partnerships

The right to water is still the source of much contention and debate. To enhance program effectiveness, the right to water must be translated into a clear strategic framework, protected by national legislation and empowered with a set of binding guidelines with sufficient substance to ensure that state government, local authorities and private operators are accountable to the communities they serve. Rhetoric alone is not enough.

Understandably, much of the debate on the right to water is argued on the basis of its solid legal grounding and moral urgency. Ultimately, of course, the focus must always return to the fact that access to basic water is an inalienable and non-negotiable human right. Nevertheless, it is also worth exploring the positive impact the right to water can have in improving project effectiveness particularly with regard to partnership between local communities and government bodies, private companies civil society groups, NGO's and international agencies. A widely accepted rights-based framework would bring a shared focus to partnerships and could bring competing interest groups closer together, providing they are involved in a genuine leveling of power relations.

METHODOLOGY

The research is based on secondary data from relevant literature and Reports. The discussion is mainly the analysis of the context of the reviewed literature.

RESULTS AND DISCUSSION

The role of government framework in implementing the right to water

In implementing the right to water the ultimate responsibility lies with the government. Despite being strongly supported by international human rights law, at present there is no practical jurisdiction to enforce the right within the country. For a successful strategy, government must adopt the right to water in their legislation and guide policies accordingly.

The Federal and State Governments have three key responsibilities with regards to the right to water. Firstly, to respect the right and not interfere directly or indirectly with people's enjoyment of the right. Secondly, to protect the right by preventing third parties sabotaging people's enjoyment of the right. Finally, to fulfill the right to facilitate, promote and provide access to water for the population.

Policy should be directed to wards prioritizing core obligation to all citizens by extending basic access, while developing long term targets through progressive realization. In the context of resource short falls and limited technical capacity, this allows for the prioritization of extending and consolidating basic services to the most marginalized communities while also developing a more ambitious long term strategy. A number of key principles in General comment No. 15 provides guidelines for how service delivery can be guided by the right to water. Water should be:

(a) **Sufficient:** Every citizen must have adequate water to satisfy his/her basic domestic needs

(b) **Accessible:** Water and sanitation must be within a reasonable distance from service users. Access must be safe and universal with no groups marginalized or threatened

(c) **Clean:** Water must be of an acceptable quality and free of disease and contamination, and sanitation must be hygienic

(d) **Affordable:** Water and sanitation must be available to user at a reasonable cost.

Kenya is a good example of how legislative recognition of the right to water can provide the first step towards a vigorous drive to improving a country access to water and sanitation. The water Act of 2002 and the subsequent 2007 National water services strategy have laid the ground for substantial sector reform, pro-poor tariffs and stronger partnerships with local communities. The strategy also includes ambitious long term targets, such as increasing access in rural area from 40 percent to 75 percent by 2015.

The Role of Private Operators in Delivering Water and Sanitation

Despite their many positive achievements, the role of private operators in the water sector remains controversial. Unfortunately, some

private operators have at times conducted themselves poorly and exploited their position by, for example, monopolizing access to water and prioritizing profit margins over their social responsibilities. These instances of malpractice reflect badly on the industry as a whole. More fundamentally, some commentators question whether there should be any space for private involvement at all in the provision of public good and a human right.

In addition, though ultimate responsibility will always rest with the government itself, when under contract, private operators may be more easily held to account than state led providers. Generally speaking, their actions have certainly been more vigorous scrutinized. With regards to incorporating the principles of the right to water contracts need to be more carefully designed to ensure that, in a context of regulated tariffs, profits alone as a function of increased efficiency are not the only measure of a providers success.

FINANCIAL FRAMEWORK FOR A RIGHT BASED APPROACH

Improving services and extending access to improvised and marginalized communities in an urban or semi-urban setting necessarily involves substantial capital costs. Poor residents are willing to pay for water and sanitation services provided they are reasonable priced in proportion to their incomes but full cost recovery for utility services through raised tariffs may render them unaffordable. In addition, service provision needs to accommodate the provision of basic needs and this means, for the very poor, the inclusion of subsidies a component of the utility's running costs.

Any right based framework for water provision needs a viable economic model from the outset to ensure it develops and extends service for marginalized communities. As a societal good water services entail costly responsibilities and cannot be run along the lines of a conventional enterprise. As the UN Human development report makes clear, full cost recovery is generally not feasible in low income countries like Nigeria, and substantial government assistance. Private operators run a high risk of creating an unsustainable investment model that can only be maintained through prohibitively expensive surcharges or by sidelining any commitment to extending services into marginalized neighborhoods

There needs to be greater clarification of what guidelines can be incorporated into both public and private provides contract to ensure the right to water is respected. Among other considerations, these might include:

- (a) Subsidies for the poorest service users, with a focus on protecting basic human needs
- (b) Extension and improvement strategy
- (c) Stable pricing
- (d) Government support

Community Participatory Mechanism

At the heart of the right to water are the essential needs of the service users themselves. Regardless of who the provider is, any meaningful attempt to implement a right based approach must necessarily place the community in a position to play a leading role in the design of its water and sanitation programs.

Although the needs of the community are the first priority, a right- based approach can also enhance program effectiveness. By transforming the power dynamic between service users and providers from passive recipients to active collaborators, their roles can be greatly expanded. Respecting community rights catalyses community capacity in the following ways:

- (a) Through Meaningful collaboration, community members can support the design of projects to satisfy their needs more effectively and efficiently.
- (b) Within affordable limit communities may be more willing and able to contribute time and capital to project partnerships if they are implemented in the clear rights based priorities.
- (c) With sufficient support empowerment, communities may successfully manage their own water resources in the long term

The Roles of Civil Society Organizations

NGOs, Development agencies and Civil Society groups can contribute (either through their own initiatives or in partnership with public authorities and private operators) to project design. Like other actors, they have responsibility to observe the right to water, to respect it by ensuring that partners do not jeopardize it, and to fulfill it by streamlining the right into social programs. However, if there was widespread agreement on the right to water across the water sector, it is likely that NGOs and civil society group would be able to direct more of their activities into project alongside other partners, within an agreed right- based framework.

Civil society organizations and NGOs can play a variety of roles in facilitating improved access to water and sanitation. An important dimension is Advocacy work for a fairer approach to water and sanitation. As well as actively campaigning for governments and private operators to adopt the rights to water, civil society groups also engage in community activities. Similarly, through educating community members about the meaning of their rights and what they can authorities, NGOs and other organizations can also coordinate innovative "bottom up" solutions among local communities between marginalized citizens and their governments as happened in

Dhaka, Bangladesh when local NGOs used their official status to negotiate to provide city's water authority to provide essential services to informal settlements.

Industry

One of the cardinal principles of the right to water is that the domestic needs of citizens must always take precedence over all other users. At present, however, industrial consumption still amounts to vast quantities of water seen in countries where a large portion of the population is unable to secure basic access to an improved water supply. A number of provident civil Protest movements across the world have highlighted the conflict that can arise between companies and local communities over water. It is therefore in the interest of corporations as well as local residents to ensure that the activities of the former do not jeopardize the right of the latter. To this end;

- (a) Companies should respect the right by actively recognizing it in their mission statement and codes of conduct, outlining their own responsibilities to refrain from degrading or depleting water resources through greater water efficiency in their processes.
- (b) Companies should protect the right to ensuring that they, their partners and where possible other actors do not endanger the sustainability quality or accessibility of water resources through effective investment in ensuring their effluent goes back into water stream in acceptable quality
- (c) Industries can actively fulfill the right by streaming it into their own operational designs and channeling their information on water quality and water sources to national and local governments and service prodders

The Roles of International Community

The right to water, though grounded in international law is concerned with a state's domestic obligations to its own citizens. Its obligations do not extend across national borders or from country to country. Nevertheless international actors could still make positive contribution to improving access to water and sanitation services through a number of measures; such as:

- (a) Funding and technical assistance
- (b) Regulation
- (c) Monitoring and Mediating
- (d) Humanitarian assistance
- (e) Water Security framework

CONCLUSION

Integrating the right to water more substantially into multi-stakeholder approaches would undoubtedly be bringing added responsibilities to each actor, but potentially considerable benefits too. Furthermore, it has the potential to provide a sharper focus and motivation for cooperation between partners and provide common guideline

strengthening the effectiveness of the partnership in delivering water and sanitation to poor communities in Nigeria. However, this would be significantly weakened without the imbedding of the right to water into policy frameworks and national legislation related to water supply.

REFERENCES

BPD (2010): Respect, protect, fulfill. Occasional Paper, March 2010. Accra, Ghana
Global Public Policy Institute
www.globalpublicpolicynet. 15th March, 2010.

International Business Leaders Forum:
www.iblf.org. 18th March, 2010
International NGO Training and research Centre (INTRAC): www.intrac.org 24th March, 2010.
The partnering Initiative:
www.theparterninginitiative.org. 2nd April 2010.