

Webinar in celebration of 10 years of Human Rights to Water and Sanitation: Q&A

- 1. Dear Blanca Jimenez, why not a free basic needs allocation like in South Africa?**
Dhesigen Naidoo, Human Right 2 Water and WRC, South Africa.

Blanca Jimenez (CONAGUA): Water and sanitation services are provided by the municipality. Each one of them decides their rate system, which can include or not basic allocation at no cost.

- 2. Normative content of HR to water: Availability, accessibility, affordability, quality and quantity. Affordability is the key when it comes to HR to water. If a community cannot afford to pay a dime for water, then water has to be made free for that community. e.g. New Delhi, India.** Dinesh Suna, Ecumenical Water Network of World Council of Churches, Geneva, Switzerland.

Sergio Campos (IDB): Affordability is key to the HRWS approach and much more during the context of the pandemic. It is also a concept embedded in the new SDGs. From the IDB, we are analysing and documenting several practices of utilities and governments in Latin America who have put into place subsidies and social programs to ensure all people can afford water and sanitation services. Some utilities are implementing the concept of a minimum amount of free water. We are analysing these experiences and how they ensure the subsidies reach the most in need and also don't damage the sustainability of the utilities.

Léo Heller (UN Special Rapporteur): I agree with you Dinesh. Payment for water is often addressed by the human rights community as "human rights do not prohibit that the access to water and sanitation can be charged". I prefer to look the other way: "for the realization of the human rights, water must be free in some situations which people are completely unable to pay or if that payment compromises their ability to enjoy other human rights." The State needs to intervene in these situations.

- 3. More privatization of water is another huge challenge to human right to water. As they have no accountability, and are known to cut corners and leave out the most vulnerable people, which reduces the HR to water a joke.** Dinesh Suna, Ecumenical Water Network of World Council of Churches, Geneva, Switzerland.

Sergio Campos (IDB): The Human Rights approach does not take a position into the management of services, being it public or private. In Lac, most of the countries have leaned to a public service.

Léo Heller (UN Special Rapporteur): I am addressing the issue of privatization and the risks to human rights in my next report and some of the risks you highlight are real.

- 4. Ms. Mwandime, has Devolution complicated the water sector in Kenya and the achievement of human rights? The theory is that managing water locally should be better, how is that working?** David Boys, World Public Services International, France.

Maureen Mwandime (KNCHR): Hello David! Devolution as a governance concept ensures that important decisions and resources are taken closer to the people. In this regard, Kenya has seen a lot of progress in terms of realizing the rights to water and sanitation as a result of devolution. Counties have tailor made policies, legislations and interventions responding to their unique issues. The country is however yet to get a good grasp of the clear-cut roles between National and County governments. Consequently, there has been unnecessary friction between the two levels of government. Further, devolution and privatisation of water and sanitation services have broadened the scope of work for the regulator (national level) whose capacity (manpower and resources) has not been reviewed to reflect its current mandate. That said, clear policies and consistent discussions between the two levels of government are key to ensuring proper coordination and sustainable provision of water and sanitation services.

- 5. Thank you Sergio for highlighting how more than 16 countries in the Latin America have committed to HR to water and sanitation. If you could shed some more light on ways such regional level political will and buy-in is established and maintained on this critical issue. Any specific regional forum or cooperation mechanism on this?** Jyotiraj Patra, OXFAM, New Delhi, India

Sergio Campos (IDB): LAC has traditionally been very active in the recognition of the HRWS, with a very active engagement of some of the Latin-American countries, such as Bolivia.

- The HRWS can be explicitly recognized in the constitutions but also in general normative or regulations for its implementation. In LAC, the regulatory framework has been remarkably developed during the last years, so that the HRW is explicitly recognized in constitutions from Bolivia, Ecuador, Honduras, Mexico, Nicaragua, Peru, the Dominican Republic and Uruguay. Recently, Costa Rica joined this club of countries including the recognition of this right in its constitution just a month ago.
- Recognition in legislation and policies it has been produced in Cuba, Guatemala, Panama, Paraguay and Venezuela.

- In addition, in Chile and Brazil, although there is no an explicit recognition of HRWS in their respective laws, there is regulation contemplating the criteria related to the accessibility and affordability in its pricing policies, in the case of Chile; and, in Brazil, with participation, equity, sustainability and universality as principles of the National Basic Sanitation Plan.

6. **Hi Maureen, End Water Poverty recently launched a global campaign called #ClaimYourWaterRights. One aspect of this campaign encourages civil society to approach human rights commissions with community complaints related to violations of water/sanitation rights. As an independent commission, do you have the mandate to receive, investigate & respond to these complaints? Can you provide legally-binding recommendations that the government must implement?**
Sam Taylor, End Water Poverty, UK.

Maureen Mwandime (KNCHR): Hello Sam! Congratulations on the launch of the campaign. With regards to your question, indeed the Commission has the mandate to receive and investigate complaints of human rights violations (including the right to water and sanitation). The Commission can receive complaints directly from the public or launch investigations *suo moto*. Findings of our investigations culminate to an advisory to relevant government institutions, litigation or even ADR. Recommendations by KNCHR are not legally binding but may be used to seek redress in courts and inform institutional reforms. As a last resort, KNCHR would call out those complicit of human rights violations and submit reports of recorded atrocities to treaty body mechanisms. With regards to the latter, state peer reviews help influence change at the national level.

7. **What can be done better to overcome:**
1) Low priority of WASH in the national budget. 2) Poor water resources governance, competition with irrigation, energy production, industry.. 3) Low tariff.. people prefer paying cable TV and cell phone services instead of WASH services... its a cultural thing we need to change... it's a marketing strategy missing in the WASH system (sector)? Martin Rivera, Para Todos Por Siempre, Honduras.

Blanca Jimenez (CONAGUA): To increase priority of water issues in budgetary terms, legislators must be made aware of its importance. On the other issues that are mentioned, it is agreed that a specific communication strategy is important for the water, sanitation and hygiene sector.

Sergio Campos (IDB): There are many initiatives to position water and sanitation as key in the political agenda. For example, the Sanitation and Water for all. At the IDB, we work

towards providing tools and insights to decision makers onto the social and economic benefits of providing water and sanitation services. Water allocation is also key and hydro--- BID, a tool developed by the IDB, provides information to decision-making for water allocation in a context of climate change.

Maureen Mwadime (KNCHR): Hello Martin! Indeed, community empowerment in as far as citizen rights and responsibilities are concerned is important. In addition to this, we need to continually advocate for a HRBA to governance so as to ensure sustainable changes in the water and sanitation sector.

8. Should access to drinking water in intermediate cities depend on the will of the local authorities? Djibrila Youssoufa, PIVJET, Cameroon.

Blanca Jimenez (CONAGUA): The provision of the water and sanitation services is responsibility of the municipal authority, which has the support of the Federation, so the will of the local authorities is important.

Sergio Campos (IDB): National plans are encouraged so that investments are decided at a national level, in coordination with local authorities. The provision of service usually relies onto the local governments, but planning is commonly done at national level. At the IDB, we support governments in planning and M&E tools and processes, while also strengthening local authorities to fulfil their role in service provision.

Léo Heller (UN Special Rapporteur): I would say that the presence of the State, mainly through local authorities, is indispensable to guarantee the realization of the human rights to water and sanitation. It is a legal obligation of all levels of government.

9. Mr. Léo, within the framework of the right of access to water what is the situation of Africa within the framework of the achievements of SDG 6? Djibrila Youssoufa, PIVJET, Cameroon.

Léo Heller (UN Special Rapporteur): Typically, least developed countries face more difficulties in meeting the targets of SDG 6, but this is not a given. Some countries, even with limited resources, have prioritized the access to water and sanitation services in line with the human rights framework, with particular attention to reduction of inequalities.

10. Another issue that I've been hearing from public and private utilities has to do with mandatory "free water" to be supplied for a couple of weeks or months in the COVID pandemic -> many utilities struggle to uphold this and question on how to revert after the crisis. In some countries, there has not been an "imposed" free water and utilities have still been able to cover 65% of their revenues to keep

working, by explaining to customers that otherwise they would go bankrupt. This raises the issue of affordability and willingness to pay. Thomas van Waeyenberge, AQUAFED.

Blanca Jimenez (CONAGUA): The pandemic has resulted in a decrease of in revenue for the water utilities and it should be analyzed how to help them in the future.

Sergio Campos (IDB): The pandemic has shown the importance of everyone having quality, reliable and affordable water and sanitation services. Communities living in unsanitary conditions are the most vulnerable and these areas present an important focus for the spread of the epidemy. Communities living in unsanitary conditions are the most vulnerable and these areas present an important focus for the spread of the epidemy.

In addition, the affordability of water and sanitation services has become a key aspect during this pandemic.

In LAC, there has been many experiences of free water during the pandemic, with unforeseen impacts. At the IDB, in practical terms, for example, we are in discussions with the CRA, in Colombia, to jointly collaborate in defining how a program for affordability and a basic consumption of water is ensured for those most vulnerable, based on the experience of the pandemic.

We've also documented several case studies of utilities and countries putting into place a minimo vital scheme, in Chile, Colombia and Ecuador, to identify if these schemes were sustainable and reached the most vulnerable.

Léo Heller (UN Special Rapporteur): Dear Thomas, in my view the question is how to balance saving lives, not limiting access to water for handwashing and protection against infection and spread of the coronavirus, and the economic sustainability of the providers. For me, during the pandemic, the absolute priority is to save lives. The second issue is certainly important, but it is something to be addressed without compromising the provision of water for all. As governments have been protecting people and business economically affected by the pandemic, I think that it is logical also to protect economically water and sanitation providers and other public services. I hope this will take place soon. We know that an unsustainable service rapidly deteriorates the quality of the provision.

11. Ms. Jimenez, Thank you very much for your analysis of the problematics and solutions related to water. Are you irrigating with drinking water or also with treated wastewater effluents? what can you tell us about the right to sanitation? is it safely managed sanitation? on-site? off-site (sewers)? Yael Mason, Water Engineer and Consultant, Switzerland.

Blanca Jimenez (CONAGUA): In some places we irrigate with treated water, the most emblematic case in our country is the Mezquital Valley in Hidalgo.

Regarding the right of sanitation, it has been incorporated to the National Water Resources Plan for this administration.

Sanitation is carried out through different type wastewater treatment plants, which are inventoried in the national inventory of treatment plants that can be reviewed on the Conagua website.

12. Water in COVID 19 period in some countries was free and in others not! Does this inequality stem from the politics or management of water companies when water is managed by private companies after the bankruptcy of the state which privatizes? Djibrila Youssoufa, PIVJET, Cameroon

Blanca Jimenez (CONAGUA): In Mexico most utilities are public, there are only three concession systems.

Léo Heller (UN Special Rapporteur): This landscape is very diverse, but I would say that in general governments are the ones responsible for enforcing public or private providers to ensure water for all.