



Office of the High Commissioner for Human Rights
United Nations Office
CH 1211 Geneva 10

High Commissioner for Human Rights

We commend you for your initiative in investigating approaches to and violations of the right to water. There is no issue that appears more urgent with children perishing every minute from easily preventable diseases. It is a tragedy and a global crisis that we are facing. We believe that a strong enforcement of the right to water will help the global community prioritize the needs of the poorest. The poorest parts of the populations have been ignored by past practices and subsidies awarded to better off populations.

We were delighted to see the General Comment 15 of the Committee on Economic, Social and Cultural Rights in 2002. The right to water continues to be an overarching issue for our work on water. However, we see this right violated by the continued practices by government, local and private agencies. This happens through the lack of pricing that take equity into account, through use of technology that negatively impacts poor users, and through privatization of water that have failed to cover needs for the poor.

Currently the poor pay the highest price to access water. Poor urban and peri-urban households are the least likely to have access to the lowest cost for water: through the piped network. The price for water is therefore often up to 20 times that of households that are connected, and water is often purchased from these better off households, creating an unregulated business and unsafe storage practices (not to mention a whole range of informal activities). But poor households also pay a high price in terms of time and effort spent collecting water. While this burden is well researched in rural communities, we often fail to notice that the same practices are followed by poor urban and peri-urban households that are unable to access piped water. When the poor are unable to mobilize funds to purchase safer access to water they are forced to some of the most polluted streams and water sources running through industrial areas.

The right to water must:

- prioritize subsidies that benefit the poor, not the rich;
- enforce affordability of water based on actual income, not national averages;
- include users in decision making processes;
- create strong due process procedures.

For an analysis of the dimensions of the right to water that supports these points, see Flynn, Sean & Chirwa, Danwood Mzikenge, 2005. *"The constitutional implications of commercializing water in South Africa"* in *"The Age of Commodity: Water Privatisation in Southern Africa,"* Eds. David McDonald & Greg Ruiters. London: Earthscan Publications.

Below are examples of our research that show the many ways to which the right to water is violated. Please do not hesitate to contact us if you have any questions or would like details on our upcoming work related to the human right.

Prepaid water meters:

"Orange Farm, South Africa: The Forced Implementation of Prepaid Water Meters." (attached)

This report documents the impact of the use of prepaid water meters in a peri-urban settlement on the outskirts of Johannesburg. The prepaid water meters were intended to help households in the area get access to improved water services. But our research found that the meters violate household procedural rights to water. Prepaid water meters have spread all over South Africa – and are being used in many other countries on the continent.



"The Cholera Outbreak: A 2000-2002 case study of the source of the outbreak in the Madlebe Tribal Authority areas, uThungulu Region, KwaZulu-Natal" (attached)

This report links the use of prepaid water meters to the 2000 cholera outbreak in South Africa which killed over 200 people. The government has officially recognized the impact of the meters and taken them down. However, in other areas, prepaid water meters are replacing previously free standpipes and enforcing old water practices: women and children go back to streams.

International Financial Institutions and trade rules:

"Challenging Corporate Investor Rule. How the World Bank's Investment Court, Free Trade Agreements, and Bilateral Investment Treaties have Unleashed a New Era of Corporate Power and What to Do About It" (attached)

The report discusses how investment rules are incorporated into trade and investment agreements and enforced by the International Center for the Settlement of Investment Disputes or other international arbitration tribunals. The rules are weighted heavily in favor of global corporations and against the mostly poor countries caught up in disputes. A number of cases are currently pending before the court – cases that has put a stop to investments in water in the affected cities – and threaten to further undermine funding to critical water infrastructure. It takes a critical look at how privatization has consequences that reach far beyond providing pipes and access. The report shows how poor countries are not only forced to pay serious attention and use resources on these cases, but also how these countries have little recourse in a system where they are set up to loose.

"Tanzania Sued for \$25 Million for British Water Company Failures" (attached)

This short background on Tanzania tells the story of how Dar es Salaam's water was taken over by a British company. The deal was dictated by international donors who were determined to get a private operation. The British company did not perform its obligations and the contract was dissolved. The case is currently before ICSID (see report above) – and will be heard April 15-20 in The Haag.

Will the World Bank Back Down? (attached)

The report reviews World Bank lending from 2000 through 2004, The lending put strong policy constraints on recipient governments to follow three reforms: change national legislation, privatize water services, and increase cost recovery. These policies have – both collectively and separately – resulted in prioritized funds to better off neighborhoods and neglected the needs of the poor. In many cases, the policies have harmed household ability to access water as it has driven prices to unsustainable levels. Instead we call for policies that take a strong look at equity and affordability based on actual income.

Wenonah Hauter

A handwritten signature in black ink, appearing to read "W. Hauter".

Executive Director
Food & Water Watch