

THE HUMAN RIGHT TO WATER

I Introduction

1. An estimated 1.1 billion people – one in six of the world's population – have to drink unsafe water every day. About 1000 children under the age of 5 die every day from diarrhoea related to their lack of access to sufficient safe water. Despite this, many governments in developing countries do not give water and sanitation sufficient priority. At current rates of progress, Sub-Saharan Africa will fail to meet the Millennium Development Goal target, to halve by 2015 the proportion of people without sustainable access to safe drinking water.

2. In trying to address this global challenge, the international community, governments and civil society are paying increasing attention to recognition of the human right to water, in order to boost political commitment and action to tackle this issue and to empower individuals to demand action by governments. This paper sets out the UK government's position on the human right to water, and how it can help to improve access to water in developing countries.

II Is there a human right to water in international law?

3. Yes. The right to water is an element of "the right of everyone to an adequate standard of living for himself and his family" (Article 11 of the International Covenant on Economic, Social and Cultural Rights or ICESCR). The UK considers that the right to water entitles everyone to a sufficient amount of reasonably affordable and accessible water necessary for survival, i.e. drinking, cooking and personal hygiene.

4. As with other rights set out in the ICESCR, the right to an adequate standard of living are to be achieved progressively by states, within their available resources. The right to water is not a free-standing right or a right in customary international law. Nor is it derived from other rights such as the right to life. The right does not include water for industry, recreation or transport.

5. The United Nations Committee on Economic, Social and Cultural Rights' General Comment No. 15, contains some useful guidance for governments on how to meet their obligations. The UK does not accept the General Comment in its entirety but we regard it as an important contribution to the debate about what having a right to water means.

III How does the UK government interpret the human right to water?

6. When we refer to the "the human right to water" or (for convenience) to "the right to water", we refer to it as an element of the right to an adequate standard of living in the ICESCR, as set out in section II. The right to water entitles everyone to sufficient, affordable, safe water for drinking, cooking and personal hygiene.

7. Water is a finite natural resource and essential for life. Water is required for many different purposes. The right to water means that priority in allocation must be given to water for drinking, cooking and personal hygiene needs. States must have regard to sustainability and for the need for the right to be realised by present and future generations.

8. It is up to each state to decide which measures are required to fulfil its obligations. However, states have a duty to take whatever steps they can to ensure that everyone enjoys the right to water, without discrimination. States must also monitor their progress in realising this right.

9. Whilst states have overall responsibility for ensuring realisation of the right to water, the manner in which services are provided, managed or regulated will be determined by each individual state. The right does not prescribe any particular model or role for public and private sectors or for civil society, and non state providers may be central to realising the right.

10. Water has to be accessible to everyone without discrimination. *Accessible* means reasonably physically and economically accessible. Economic accessibility means that water has to be reasonably affordable to consumers who pay for it delivered to their house or to a hand-pump or tap stand that they use. However,

sustainable services must be based on a principle of cost recovery and people's ability to pay or contribute labour. Delivering safe water costs money but at the same time the needs of the poorest and most vulnerable must be reasonably accommodated within the systems and structures adopted by governments.

11. Since the right to water applies to everyone, states should give special attention to those individuals and groups who have traditionally faced difficulties in exercising this right. This is likely to mean that states:

(i) must seek to increase service delivery beyond those reached by existing networks;

(ii) cannot ignore more remote communities and must seek to address lagging regions and neglected rural communities;

(iii) must seek to ensure that those without tenure have access to water services on an equal basis to those with tenure;

(iv) must seek to protect the poorest and most vulnerable from exclusion through social, cultural, traditional, or other practices.

IV Why should DFID support developing countries in realising the human right to water?

12. DFID sees human rights as central to the development agenda and the fight against poverty. We are committed to working with developing country governments to assist them in implementing their human rights obligations and to empowering people living in poverty to claim their rights. We advocate a "rights based approach" to development, which incorporates the human rights principles of participation, inclusion and fulfilling obligation.

13. In our recent White Paper, *Eliminating world poverty: Making governance work for the poor*, we emphasise the importance of human rights for effective state-building and good governance. In addition, we state that one of three principles used

to assess how UK aid will be provided is the partner government's commitment to respect for human rights and international obligations.

14. We believe that promoting the right to water will further our development aims. There are a number of important benefits to be gained from supporting the right:

(i) The right sets a standard, based on universally shared values. It is legally binding, and requires all ratifying states¹ to take steps, within their available resources, towards progressive realisation of the right.

(ii) The right gives people's demands for access to water legitimacy. It will help ensure that the poorest and most excluded consumers have sufficient voice to hold governments to account for their obligations.

(iii) The right to water encompasses the range of principles which underpin all human rights such as participation, inclusion and accountability. These principles help to ensure that the *process* of planning and delivering water services is also respectful of human rights, strengthening the case for incorporating good practice, such as poor people's participation in decision-making processes.

(iv) Since everyone can claim equal entitlement to human rights, the right to water takes us beyond the Millennium Development Goal target and gives states responsibility for ensuring reasonable access to safe water for all, including the poorest and most socially excluded. This means that states must seek to ensure that the steps they take are non-discriminatory. They must seek to take specific measures to meet the needs of the poorest and of those individuals and groups who have traditionally faced difficulties in exercising this right.

(v) Sustainable methods of delivering water services, including cost recovery, are not automatically equitable or affordable. In order to meet their obligations, states must seek to take specific measures to address the issue of affordability.

¹ States that have ratified the ICESCR

(vi) The right requires governments to put in place an adequate system for monitoring progress.

V How will DFID support implementation of the human right to water?

15. We will support partner governments to fulfil their obligations under the ICESCR and we will strengthen the ability of people living in poverty to claim their right to water. We will review and update our policies and programmes in line with our commitment to supporting the right to water.

16. National development policies can be a starting point for turning human rights into plans and action. Where appropriate, we will discuss how the right to water can be realised in particular countries in the context of dialogue over poverty reduction strategies and other national development strategies.

17. Our programme activities to support the right to water may include:

(i) strengthening political and policy support for meeting the needs of the poorest;

(ii) helping to make public institutions more accountable to the poor, including supporting improved access to information, where appropriate;

(iii) building the capacity of those with duties to fulfil the right;

(iv) supporting measures to tackle discrimination and social and cultural practices which exclude particular groups from accessing services;

(v) strengthening the legal and policy framework for accessing water;

(vi) supporting public expenditure reviews and other analysis of budget allocation to ensure that water service provision is targeting poor people;

(vii) supporting national and local monitoring systems (with disaggregated data), including state reporting on treaty obligations;

(viii) supporting measures to raise awareness of the right to water;

(ix) supporting measures to increase poor people's voice and participation in processes which affect their rights;

(x) strengthening the capacity of poor and excluded groups to make claims through legal, political and social channels, including support for community advocacy and action.