

Special Issue: Water as a Human Right for the Middle East and North Africa

Foreword

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Throughout history, it has been recognized that water is an essential requirement for the human and ecosystems survival. Without water, life, as we know it will simply not be possible. Thus, not surprisingly, the ancient Greek philosopher, Pindar, declared in the 5th Century BC that best of all things is water. Nearly two millennia later, Leonardo da Vinci considered water to be 'the driver of nature'. These may be considered by some to be overstatements, but the fact that such eminent personalities of their times made such major pronouncements indicate that water always has been considered to play an important role in human survival and development.

During the second half of the 20th century, human population increased steadily, as did our economic and social activities. These two developments, together with sub-optimal water management practices and processes, meant that many parts of the world started to face physical water scarcities. In addition, it is now being increasingly accepted that the environment is a legitimate user of water. Thus, in those areas where much of the available water has already been allocated, or are about to be allocated, the addition of environmental needs to other existing water needs has further complicated an already complex and difficult situation that will undoubtedly have significant social, political and economic ramifications in the coming years.

The importance of water for satisfying a variety of human and ecosystem needs has been regularly recognized in numerous intergovernmental meetings at very high decision-making levels, starting with the United Nations Conference on the Human Environment, held in Stockholm in 1972.

All these global intergovernmental conferences and their resulting declarations and action plans pointed out the need for water for drinking (humans and livestock), food production, electricity generation, environmental conservation and industrial developments. The importance of access to clean water and sanitation was further emphasized in the Millennium Development Goals and in the Johannesburg Declaration of 2002.

The importance of having access to clean water for domestic uses and sanitation was very specifically highlighted during the UN Water Conference, held in Mar del Plata, Argentina, in March 1977. This Conference noted that the access to water is a basic human need, and proposed that the period 1981–90 should be declared to be the International Water Supply and Sanitation Decade so that the people everywhere could have access to safe water within a reasonable timeframe. Even though the Decade missed its goal of achieving universal access to safe water, it is now considered to be a remarkable success. The Decade mobilized political will and resources in such a way that an estimated 600 to 800 million people received access to clean water, who otherwise may not have had access to it.

An in-depth analysis of the resolutions and action plans of the various intergovernmental conferences indicate that while they have consistently given high priority to achieving universal access to clean water, they have vacillated regularly between the concepts of water as a basic need and water as a human right. In fact, it appears that these two concepts have often been used interchangeably, without a clear understanding of their differences and possible policy and financial implications.

The situation changed somewhat when the UN Committee on Economic, Social, and Cultural Rights issued General Comment No. 15 in January 2003. This Comment reinterpreted Articles 11 and 12 of the International Covenant on Economic and Social Rights (ICESR). It stated that:

Water is a limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity.

It then went on to say that:

The right to water contains both freedoms and entitlements. The freedoms include the right to maintain access to existing water supplies necessary for the right to water, and the right to be free from interference, such as right to be free from arbitrary disconnections or contamination of water supplies. By contrast, the entitlements include the right to a system of water supply and management that provides equality of opportunity for people to enjoy 'the right to water'.

The responses to the non-legally binding reinterpretation of ICESR stating that water can indeed be considered to be a human right under the existing international treaties and covenants have been somewhat varied. The goal of the General Comment No. 15 that every human should have access to clean water is now generally accepted. The new interpretation was widely acclaimed by most, if not all, of the advocacy non-governmental organizations (NGOs) that were interested in providing access to clean water and sanitation in developing countries. However, it should be noted that even within the legal community there is divergence of views as to whether human rights can be extended to areas where no rights have been specifically endorsed by international treaties and conventions. Equally, many governments have declined to accept this 'derived' interpretation that water is a human right.

Because of the importance of the desirability of universal access to clean water, and differences of opinions on the recent developments that water is a human right, the International Development Research Centre (IDRC), through its Cairo Office, decided to explore the main issues associated with this area in depth, including the formulation of a priority research agenda. Accordingly, Dr. Eglal Rached, Director of the IDRC Office in Cairo, in collaboration with Prof. Asit K. Biswas of the Third World Centre for Water Management in Mexico, formulated a project on water as a human right, very specifically for the Middle East and the North Africa region.

Among the activities carried out under this project was a very focused workshop which explored the different important issues that are associated with this concept, and also to what extent this concept is appreciated by the national water agencies in terms of its implementation to improve access to clean water. Leading national and international experts on the region, and from the region were carefully selected and invited to prepare papers on specific topics within an overall framework. The authors of the commissioned papers and some selected experts were then invited to review and critique the papers at an invitation-only workshop, in Cairo, Egypt, in 2006.

During the Cairo discussion, the participants identified the following seven specific areas where further research is needed.

- Is water a basic need, or a human right? What are the implications if water is considered as a basic need or human right? Will declaring water as a human right accelerate universal access to clean water?
- If water is considered to be a human right, what are the duties and responsibilities of the various levels of governments and water users? Will this imply governments are obliged to provide clean water to everyone? If so, is this a feasible long-term alternative?
- If water is to be priced, how should tariff structure be organized to satisfy the twin objectives of economic efficiency and social equity for specific locations?
- Since it is highly probable that even by 2020, more than 85% of the people will be receiving water from the public sector, how can the efficiency of these companies be improved very significantly?
- What could be the roles of national and regional private sector companies in the Middle East and North Africa (MENA) region so that they can bring in management expertise and private capital to improve the existing situation?
- What should be the legal and regulatory frameworks in the MENA countries that could ensure people have access to clean water, irrespective of whether the services are provided by public or private sector?
- In view of the rapid increase in the number of elderly people in the MENA region in the coming decades, how should their water needs be covered efficiently?

These are difficult questions, which both the MENA countries and the appropriate international institutions need to consider seriously in the coming years.

The present publication is the first definitive work that addresses the various complex aspects of water as a human right in the MENA countries. We are confident that this will stimulate interest on this overall issue, as well as contribute to accelerated research on the priority areas identified by the expert group.