



**Mandate of the Independent Expert on the issue of human rights obligations related to
access to safe drinking water and sanitation**

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Testimony before the Tom Lantos Human Rights Commission
3 March 2011**

Introduction

1. Honourable Congressmen McGovern and Wolf, members of the Tom Lantos Human Rights Commission of the U.S. House of Representatives, congressional staff and representatives of civil society, thank you for the opportunity to address you this morning on the human right to water and sanitation.
2. In March 2008, through its resolution 7/22, the United Nations Human Rights Council created the mandate of the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, and I was appointed as mandate holder in September 2008. According to the resolution, I am mandated to (1) prepare a compendium of good practices, (2) to clarify the content of human rights obligations related to access to safe water and sanitation, and (3) to make recommendations that could help the realization of the Millennium Development Goals, in particular of Goal 7.
3. History has been made around the world in the past several months. On 28 July 2010, the United Nations General Assembly recognized the right to water and sanitation. On 30 September 2010, the United Nations Human Rights Council affirmed the right and further specified that the right is derived from the right to an adequate standard of living. What does this mean? Why does it matter?
4. The human right to water and sanitation entitles everyone to water and sanitation that is available, accessible, affordable, acceptable and safe. This obligation must be progressively realized by a country to the maximum of available resources, which means that a country must take concrete and targeted steps towards ensuring universal access to water and sanitation. Where domestic resources are insufficient for such efforts, countries must avail themselves to international cooperation and assistance.
5. Human rights also require that these efforts be undertaken in a non-discriminatory manner. There must be opportunities for meaningful participation; there must be transparency and access to information; and accountability mechanisms must be put in place to address cases where this right is violated. How does all this translate to a development policy concerning water, sanitation and health? I will use the example of the Millennium Development Goals (MDGs) to illustrate how development policy might change with an explicit focus on human rights.
6. There are many misconceptions about the human right to water and sanitation, and I think it is important to clarify these at the outset:
 - a. Do human rights require that water and sanitation services be provided for free? No.
 - b. Do human rights prohibit private sector participation in water and sanitation service delivery? No.

- c. Do human rights require that everyone everywhere have access to a tap and a flush toilet?
No.
- d. Does recognizing the right mean everyone is entitled to water and sanitation immediately?
No.
- e. Is there enough water in the world for the realization of the human right to water and sanitation for everyone? Yes.

Normative content of the right to water and sanitation

7. As I said previously, the normative content of the human right to water and sanitation entails that water and sanitation are available, accessible, affordable, acceptable and safe. Each of these dimensions is equally important and must be factored into policies concerning water and sanitation. Sanitation that is not culturally acceptable, for instance, by not ensuring privacy, is not adequate because it will not be used. Water that is acceptable but unsafe is equally inadequate. The existing global development framework to achieve the MDGs unfortunately does not fully reflect all the elements of the right to water and sanitation. The estimated 884 million people without an improved water source is often interpreted as people without access to safe drinking water. In fact, that number is much higher. For example, I was on a country mission to Egypt, where I went to visit a family that recently had a tap installed in the home. When I turned on the tap, the water that flowed out was completely black. This tap, for purposes of the MDGs, is considered an improved water source, regardless of the quality of the water that comes out from it.

8. If we add to the number of people who may have access to water, but cannot afford to pay for the service, the number increases even more. The United Nations Children's Fund and the World Health Organization are doing important work to improve the indicators of the Joint Monitoring Programme of the Millennium Development Goals, and also are addressing these dimensions in their country-level work. But a consistent approach is needed in the international development agenda to ensure that the core elements of the human right to water and sanitation are not neglected.

Non-discrimination

9. Human rights require a focus on the most vulnerable, those who are most often excluded from progress. Often, these people are the most difficult to reach, but this cannot be a justification for neglecting them – on the contrary. The MDGs only foresee reducing those without access to water by 50 per cent. For some States that is a huge feat, while for others it is a simpler task. From the perspective of human rights, we cannot stop at 50 per cent. Human rights requires that there be universal access.

10. Reaching those who are excluded can be politically complicated and, in some situations, may risk cooperation with the Government. For instance, trying to improve the situation of slum dwellers may be met with resistance by the Government under the pretext that slum dwellers are illegal and providing services would grant them “unjustified” rights over the land they occupy. But I must stress that everyone, without discrimination, has a right to water and sanitation. People who live in slums, people who live in rural areas, people who live in urban areas, poor people, rich people, indigenous people, everyone.

Participation, accountability and empowerment

11. Human rights require the opportunity for active and meaningful participation by concerned individuals. This means transparency and the means to access information. This is also about creating space for all to participate in the decision-making process of policies that affect them. All people includes, among others, people who live far away, illiterate people, people who speak other languages, people with disabilities. Participation is not only an obligation imposed by human rights, but also it helps to ensure more sustainable interventions. Without participation, interventions are more likely to fail.

12. Another important aspect of human rights is their binding nature. States have committed themselves to these obligations, and they are required to ensure these human rights. It is not an

optional add-on but a legally binding obligation. When violations take place, and they occur in every country of the world, accountability mechanisms must be established to provide redress to the victims of such violations.

13. Finally, for me, the most crucial dimension of human rights is their potential to empower people. Water and sanitation are no longer matters of charity that a Government can give or take away. This is a human right that people can claim. Governments are accountable to people for this human rights and once people know that they have this right, the entire dynamic changes as they hold their officials to account. On a more personal note, it has an impact on a person's sense of dignity since he or she is no longer simply a recipient of aid, but a rights-holder with a legitimate claim.

Conclusion

14. It is crucial that the United States actively participates in the design of the post-2015 international development agenda. It is also critical that the United States fully integrate human rights into its development priorities, policies and programmes. Why not use water and sanitation as a test case? This is what UNICEF and WHO are doing regarding the MDG indicators. Let me also add that the United States must obviously also take all necessary steps to make sure that this human right is fully respected in this country. I will not yet pronounce myself on what I have seen and heard over the last two weeks during my country mission to the U.S. Nevertheless, there are definitely serious challenges to be overcome to ensure that this right becomes a reality for all people living in this country, but I am confident that with the necessary leadership and political will this can be accomplished.

15. Will applying a human rights perspective to development, and water and sanitation in particular, make things more complicated? Probably yes. The progress achieved thus far might not seem as great once viewing things through a human rights lens. Nevertheless, as with other human rights, we are painting a more honest picture of progress. We are getting closer to reality and thus more able to devise strategies to change it for the better.

16. I have been honoured and pleased to be here today and to submit these remarks to the Commission. Thank you.