

# Water & Sanitation

## A People's Guide to SDG 6

A rights-based approach to implementation

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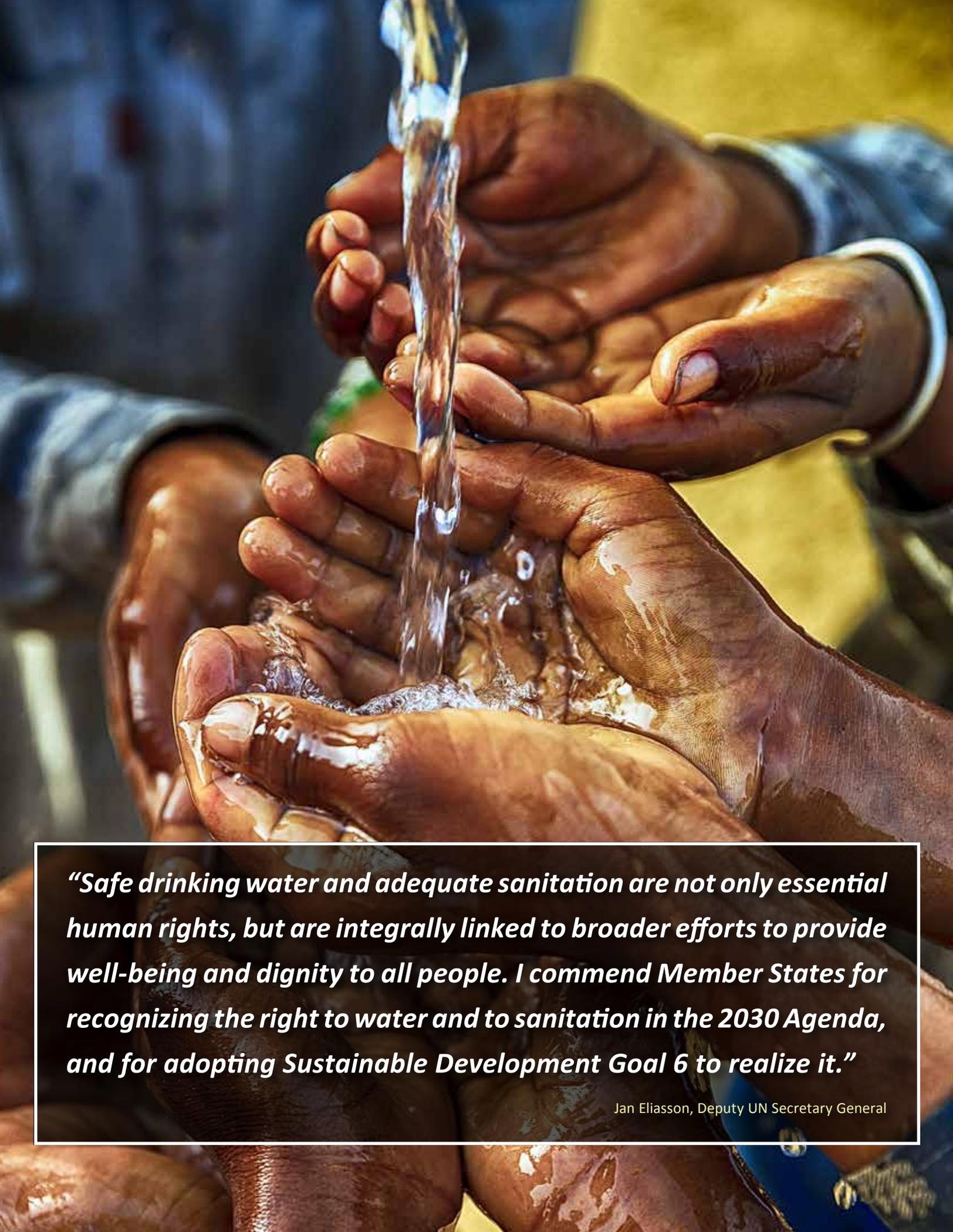
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***“Safe drinking water and adequate sanitation are not only essential human rights, but are integrally linked to broader efforts to provide well-being and dignity to all people. I commend Member States for recognizing the right to water and to sanitation in the 2030 Agenda, and for adopting Sustainable Development Goal 6 to realize it.”***

Jan Eliasson, Deputy UN Secretary General

# A People's Guide to SDG 6



## A RIGHTS-BASED APPROACH TO IMPLEMENTATION

In September 2015 the United Nations launched the 2030 Agenda for Sustainable Development – meant to shape international development for the next fifteen years. The agenda includes seventeen Sustainable Development Goals (SDGs), replacing the Millennium Development Goals (MDGs) launched in 2000 with the goal of eradicating world poverty.

This universal agenda is grounded in the Universal Declaration of Human Rights and the international human rights treaties and instruments. It recalls States' obligations to respect, protect, and promote human rights and fundamental freedoms for all without distinction. Thus, adopting an explicit human-rights based approach is an integral strategy for achieving the Sustainable Development Goals.

Goal 6 of the 2030 Agenda is dedicated to action to ensure availability and

sustainable management of water and sanitation for all. Interpretation is guided by the Preamble to the 2030 Agenda, which explicitly recognizes the human right to safe drinking water and sanitation. The human right to water and sanitation is guaranteed under several international instruments, such as the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, as well as in norms applicable in armed conflict. On this

basis, the obligation of governments to sustainably ensure the human rights to water and sanitation for all without discrimination must be the driving force behind the implementation of SDG 6.

Despite these international commitments and obligations, the management of water resources is frequently not driven by human rights norms, but rather by the interests of big businesses seeking maximum profits. This leads to human rights violations and grave consequences in the context of a global water crisis.

**To achieve and stay truthful to the global pledge of leaving no one behind, we specifically call for a rights-based implementation of SDG 6 that:**

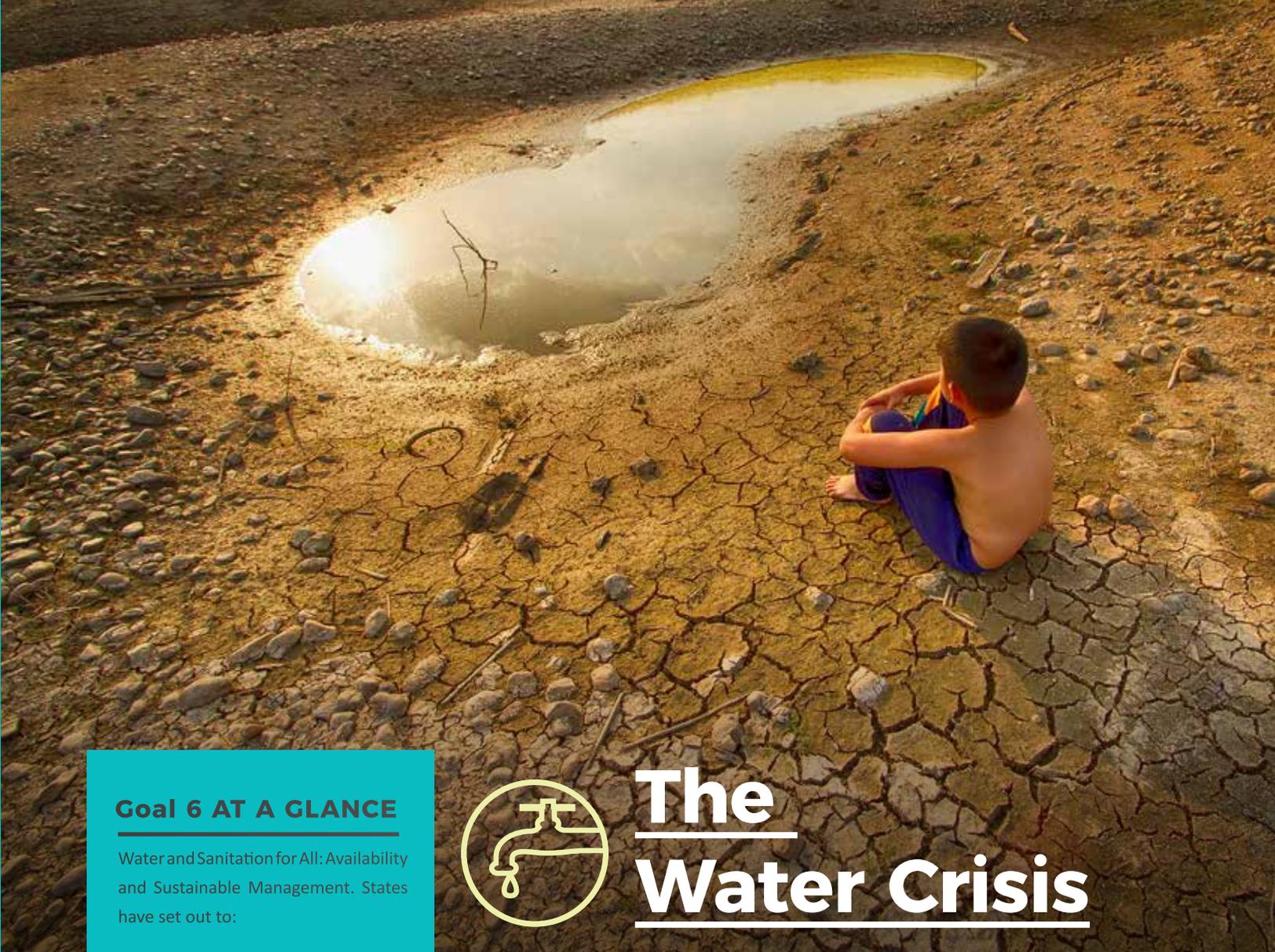
**PREVENTS THE COMMODIFICATION** of water resources and privatization of services

**INCREASES PUBLIC FINANCING** for water and sanitation services and for environmental measures to address water quality and scarcity issues

**PROMOTES COMMONS-BASED WATER RESOURCE MANAGEMENT** to empower local communities to protect watersheds and ensure an equitable and sustainable distribution of water resources



**Hundreds of millions of people do not have access to essential water, sanitation, and hygiene services.**



## Goal 6 AT A GLANCE

Water and Sanitation for All: Availability and Sustainable Management. States have set out to:

- 6.1 Ensure everyone has universal and equitable access to safe, affordable drinking water
- 6.2 Ensure everyone has access to adequate and equitable sanitation and hygiene
- 6.3 Improve water quality by reducing contamination sources
- 6.4 Increase water-use efficiency and address water scarcity
- 6.5 Implement integrated water resources management
- 6.6 Protect and restore water-related ecosystems
- 6.a Expand international cooperation and support to developing countries
- 6.b Strengthen local communities' participation in water and sanitation management



# The Water Crisis

The global water crisis is the result of policy failures that allow for the unsustainable use, unjust distribution and inequitable access in favour of powerful private interests and to the detriment of human rights and the common good.

Systemic injustices have led to the dire situation that we face: hundreds of millions of people do not have access to essential water, sanitation, and hygiene services. People living in poverty and other situations of vulnerability are the primary victims of these human rights violations and deprivations. Governments have failed in their obligations to guarantee the realization of these rights. In the U.S. state of Michigan for example,

these failures have manifested in the form of mass shut-offs of water services for failure to pay and an entirely preventable public health crisis of lead-poisoning due to contamination of drinking water. Both have disproportionately affected poor black households.

Trade deals and investment treaties restrict State sovereignty and policy space to make decisions and uphold their international human rights obligations. For example, a bilateral investment treaty allowed French transnational water companies to sue the Argentinean government when it refused to raise water rates in the context of the 2001-2002 financial crisis.

A dying planet's watersheds are being poisoned and depleted by mega agriculture, beverage, mining, and energy industries that demand greater access to increasingly scarce freshwater supplies to sustain and expand their profits. Precious water is being permanently removed from local watersheds as it is diverted, exported with the crop or product, or contaminated by waste. In this way these powerful interests "grab" water from the local communities, small farmers, and indigenous peoples that need it.

Local opposition to these powerful interests has been quelled through use of the legal measures. In the United States, the potentially hazardous chemicals blasted into underground water for hydraulic fracking are kept from public knowledge as a protected industry trade

secret and victims who have suffered from water contamination can only obtain settlements on the condition of accepting lifelong gag orders from speaking about the situation.

Opposition to development projects affecting water is often put down through blatantly illegal measures. Indigenous peoples and peasant communities whose health, livelihood, and cultural identities are most immediately tied to water-related ecosystems and cycles are facing large-scale displacement and loss of heritage. Those who promote human rights face criminalization. In Honduras, indigenous organizations have peacefully opposed the Agua Zarca dam project because of the threatened impact to the Gualcarque River. They have denounced the flagrant violation

of the Lenca people's rights, including to free, prior, and informed consent. The project has advanced through intense militarization of the area. Several human rights defenders have been assassinated, including Lenca leader, mother, and 2015 Goldman Environmental Foundation award-winner, Bérta Cáceres.

If the SDGs are going to contribute to addressing this water crisis—understood in its true dimensions—then we must correct these grave, systemic policy failures with an explicit and consistent focus on water justice. A human rights based approach provides conceptual and practical tools for countering efforts to steer development policies away from empowering communities and toward managing water as a means to sustain and develop private wealth.

## SPOTLIGHT ON INVESTOR-STATE DISPUTE SETTLEMENTS: EL SALVADOR

El Salvador is experiencing the water crisis especially dramatically; conservative estimates suggest more than 90% of surface water is contaminated. The country is small and densely populated and therefore extremely vulnerable to the effects of natural disasters and environmental degradation.

Public opposition to metal mining is widespread in the country. This opposition is spurred in large part by a notorious case in which a mining company polluted the San Sebastian River with toxic levels of cyanide and iron, causing devastating impacts on the country's water supply. The devastating experiences with mining in neighbouring Honduras and Guatemala serve as a warning to Salvadorans seeking to protect their own watersheds.

Against this backdrop, the mining

company Pacific Rim, since acquired by OceanaGold, was planning to exploit a gold mining site along the Lempa River in a project called "El Dorado." The project was vehemently opposed by the population and caused a lot of

**"... companies rely on skewed provisions in investment agreements and treaties to circumvent national laws ..."**

tension, culminating in the murder of three community members opposing the mine. In 2004, the company applied for an exploitation permit, which was denied because it had failed to follow the proper procedure. Rather than complying

with Salvadoran policies, the corporation opted to sue the state for \$301 million in lost investments and future profits through a World Bank tribunal.

In 2008, the President of El Salvador declared a *de facto* moratorium on all new mining permits until it could be determined how to mine without irreparable damage to the water supply. The moratorium has continued until today.

El Salvador is an impoverished nation with pressing social and economic needs. Although the World Bank ruled in favour of El Salvador in 2016, this has become a paradigmatic case of how companies rely on skewed provisions in investment agreements and treaties to circumvent national laws and undermine the State's sovereign policy determinations about human-rights and environmental protections.



# The SDGs

In monitoring and advocating in SDG-implementation process, we must keep a simple truth at the forefront: It is ill-advised for governments who wish to comply with their international human rights obligations and who seek to ensure development outcomes for the most vulnerable to abdicate human rights responsibilities to the private sector.

Yet interested parties are pushing strongly for the SDGs to be implemented in ways that would catalyze greater processes of privatization and market-based solutions. As seen throughout criticism from many sectors, the SDGs are tainted by this fundamental contradiction of favoring the very policies that have caused

the major social and environmental ills that the Agenda seeks to solve.

Although human rights instruments do not prohibit private-sector involvement in the provision of basic services, there is increasing evidence that, in practice, the emphasis on profit in the delivery of essential services results in predictable and systemic human rights violations and deprivations for vulnerable populations. This is aggravated by the fact that major gaps in national and international legal frameworks make it exceedingly difficult to hold corporations accountable for delivering on their development promises or to pursue justice and remedy for their responsibility in human rights abuses<sup>1</sup>. This is even more so in the case of transnational corporations.

The emphasis on private-sector involvement in the provision of essential services under the SDGs contradicts the UN's own research on the matter. A UNDESA report released in February 2016 notes that private-public-partnerships are more costly than public-sector alternatives from a social and financial standpoint<sup>2</sup>. The adverse relationship between privatization and human rights has been documented by the Special Rapporteur on the human right to education, Kishore Singh: "One of the pernicious consequences of private education is that it undermines universal access to education, owing to the high costs associated with it. Private education is beyond the reach of the marginalized and the poor, who need education the most."<sup>3</sup> He explains: "The State is both



## Notes

1. See Letter for Global Water-Justice Organizations to UN Secretary General, Apr. 22, 2016, available at <http://blueplanetproject.net/documents/bpp-ungsg-letter-0416.pdf>.
2. Public-Private Partnerships and the 2030 Agenda for Sustainable Development: Fit for purpose?, <https://sustainabledevelopment.un.org/content/documents/2288desaworkingpaper148.pdf>
3. Report of the Special Rapporteur on the right to education, Privatization and the right to education, UN Doc. A/69/402 (24 Sept. 2014). The Committee on Economic, Social, and Cultural Rights found that even a State's efforts to finance low-cost private education in developing countries may undermine the quality of the free public education and create discrimination among children (Concluding Observations UK, June 2016, considering UK financing of private schools in Kenya, Nigeria, Uganda, and Pakistan).
4. Transforming our world: 2030 Agenda for Sustainable Development, U.N. Doc. A/RES/70/1 (Sept. 2015), para. 10.
5. To promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.
6. Future We Want, UN Doc. A/RES/66/288 Annex (11 Sept. 2012).
7. G.A. Res. 68/157, U.N. Doc. A/RES/68/157\* (Feb. 12, 2014), para 6(c); HRC Res. 27/7, U.N. Doc. A/HRC/RES/27/7 (Oct. 2, 2014), para 4; HRC Res. 24/18, U.N. Doc. A/HRC/RES/24/18 (Oct. 8, 2013), para 10; HRC Res. 21/2, U.N. Doc. A/HRC/21/2 (Aug. 26, 2013), p.10, para 14.
8. Para. 7
9. G.A. Res. 70/169.

the guarantor and the regulator of education.... Understanding the multifaceted role of the State in education is a precondition for critically analyzing educational institutions and their responsibility for preserving education as a public good.”

In the context of increasing water scarcity, the role of the State as regulator is undermined when powerful private interests are invited to the decision-making table to set environmental policies. As discussed above, a defining reality of the water crisis is that private corporations are often in direct competition for access to dwindling freshwater supplies with local communities and the general public—whose rights and interests the State is charged with upholding.

## Human rights in the SDGs

States' international human rights obligations are binding parameters for their development processes, policies, efforts, and results. Policymakers and advocates ought to turn to these parameters to resolve any ambiguity or contradiction in SDG implementation.

The extensively negotiated Declaration of the 2030 Agenda for Sustainable Development specifically asserts that it is “grounded in the Universal Declaration of Human Rights” and “international human rights treaties.”<sup>4</sup> The Preamble states that the 17 Goals and 169 targets “seek to realize the human rights of all.” The focus of the SDGs on universal access and that “no one will be left behind” is consistent with a human rights approach. Goal 16<sup>5</sup> is an important guide for interpreting the proper implementation and orientation of all other goals, especially targets:

16.6 Develop effective, accountable and transparent institutions at all levels

- 16.7 Ensure responsive, inclusive, participatory and representative decision-making at all levels
- 16.10 Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements
- 16.b Promote and enforce non-discriminatory laws and policies for sustainable development

## Reaffirming the human rights to water and sanitation in the SDGs

At the 2012 UN Conference on Sustainable Development “Rio+20” all States recommitted to the “human right to safe drinking water and sanitation” and recognized that “water is at the core of sustainable development.”<sup>6</sup> During the negotiations of the post-2015 development agenda, the UN General Assembly and Human Rights Council specifically called upon States to give proper consideration to the importance of the human right to safe drinking water and sanitation and the principles of equality and non-discrimination. Civil society campaigned for explicit recognition of the human rights to water and sanitation as a crucial lynchpin to safeguard against corporate abuses, uphold the sovereignty of local communities over their natural resources, and promote universal access to public water and sanitation services.

Despite opposition up to the final hours of negotiation, States ultimately included “the human right to safe drinking water and sanitation” in the preamble to the SDGs. In December 2015, the UN General Assembly adopted a resolution welcoming the reaffirmation of commitments regarding the human rights to safe drinking water and sanitation as part of the 2030 Agenda for Sustainable Development.



Among the seventeen Sustainable Development Goals, there is a stand-alone goal to “ensure availability and sustainable management of water and sanitation for all.” Water is also identified as a cross-cutting issue inter-dependent with other goals, including sustainable agriculture, health, gender equality, energy, sustainable cities, inequalities, sustainable consumption and production, climate change, and terrestrial ecosystems.



# Water Goal

## Understanding SDG 6 in light of human rights obligations and principles

To assess the Water Goal in light of international human rights law we consider the human-rights implications of each of the three categories of targets included in the goal:

Breakdown of SDG 6		
6.1	outcomes related to human rights to water and sanitation	safe, affordable drinking water
6.2		adequate sanitation and hygiene
6.3	management of freshwater resources	water quality and contamination
6.4		water scarcity and use-efficiency
6.5		water-resources management
6.6		water-related ecosystems
6.a	means of implementation	international cooperation
6.b		communities’ participation

## Outcomes related to human rights to water and sanitation

The first two targets (6.1 & 6.2) call on each State to achieve the full enjoyment of the human rights to water and sanitation for all. The indicators are consistent with human-rights law; water and sanitation outcomes are to be assessed according to availability, accessibility, quality/safety, acceptability, and affordability. In these targets “equitable” and “for all” embody the human-rights principles of equality and non-discrimination, demanding a priority focus on the most marginalized.

## Management of freshwater resources

The next four targets (6.3, 6.4, 6.5 & 6.6) relate to the management of freshwater resources in pursuit of the overall goal of ensuring the availability and sustainable management of water and sanitation for all. Sustainability is a fundamental human rights principle and human rights are inextricably linked with a safe, clean, healthy environment.

Goal 6: Ensure availability and sustainable management of water and sanitation for all		
target	aim	strategy
6.3	improve <b>water quality</b>	reduce pollution, eliminate dumping and minimize release of hazardous chemicals and materials, halve the proportion of untreated wastewater and increasing recycling and safe reuse
6.4	address <b>water scarcity</b> (and reduce number of people suffering from water scarcity)	increase water-use efficiency and ensure sustainable withdrawal and supply of freshwater
6.5	–	integrated water resources management
6.6	protect and restore <b>water-related ecosystems</b>	–

Target 6.3 refers to wastewater treatment, which is part of the State’s obligations in realizing the human right to sanitation for all. The human right to sanitation requires that waste must be safely disposed of and treated. Target 6.3 aims only to halve the proportion of untreated wastewater so it necessarily falls short of the obligation to guarantee the human right to adequate sanitation for all included in Target 6.2.

Interpretation of Target 6.4 must be guided by human-rights obligations that demand, in situations of scarcity, that pri-

ority be given to guaranteeing adequate water for personal and domestic use (human rights to water and sanitation) and for subsistence farming (human right to food).

Target 6.5 refers to a particular paradigm of water management (integrated water-resources management (IWRM) (see more below in “Red Flags”) without specifying an aim. The strategy then must be held up directly against the overall goal of ensuring availability and sustainable management of water and sanitation for all. Unfortunately, experiments with IWRM have not

produced as promised on this front. This target is referring specifically to decision-making processes over water-resource management; therefore the breadth of human rights requirements related to participation, transparency, and accountability are directly applicable, as well as substantive rights to self-determination and free, prior, informed consent.

Target 6.6 aims to conserve and restore water-related ecosystems, but the target does not set out strategies for this aim. The human-rights framework is applicable here as a safe, clean, and healthy environment is a recognized pre-condition for the full enjoyment of human rights. Guaranteeing human rights for full participation of affected communities and civil society is necessary to ensure just and effective environmental policies. As with every other target, all strategies and measures proposed for conserving and restoring ecosystems must be evaluated in terms of positive and negative impacts on human rights in the short- and long-term.

## Means of implementation

The final two targets (6.a & 6.b) are means of implementation. The State has the obligation to access and use the maximum available resources for realizing the rights to water and sanitation, and this includes a duty to raise adequate revenues, through taxation and other mechanisms, and to seek international assistance where necessary. The test of all international cooperation under 6.a will be whether it increases the State’s ability to guarantee access to water, sanitation, and hygiene for all persons in a non-discriminatory manner, prioritizing the most vulnerable and disadvantaged members of the population. Finally, the human rights to water and sanitation have clear standards for participation that inform target 6.b on the participation of local communities.

The SDGs will not be implemented on a blank slate. Current systemic failings and injustices alert us to foreseeable risks in the implementation of SDG 6 in terms of complying with the international human-rights legal parameters outlined above. Advocates should be attentive to these risks and insist on a rights-based framework to counter any of these attempts to divert focus of development policies away from the intended purposes. Be on the look-out for:



## Red Flags

### **Outcomes measured without reference to human-rights dimensions**

Be aware of proposals to measure outcomes in the area of water and sanitation that do not reference the dimensions required under international human rights law: sufficient availability, accessibility, quality/safety, acceptability, affordability, and non-discrimination. The failure to include each of these dimensions is a telling sign that the focus of water policy has been diverted away from guaranteeing the conditions for people to live in dignity.

For example, Target 7.C of the Millennium Development Goals (MDGs) called for the provision of “safe” drinking water and mea-

sured the number of “improved” water sources. This had the perverse result where someone that had access to a broken faucet without water or to one with contaminated water was counted as having access to safe drinking water. Note that availability means sufficient supply for meeting all personal and domestic needs, and access also includes the concept of real affordability, in addition to considerations of physical accessibility and non-discrimination.

### **Data that isn’t disaggregated by different sectors of the population**

Statistics that do not sufficiently disaggregate outcomes by sub-groups can mask

inequalities and de facto discrimination. As the former Special Rapporteur on the human right to safe drinking water and sanitation observed, “data focused on statistical averages or aggregates mask inequalities...even in countries where extraordinary progress has been made in terms of overall access to sanitation and water, the poorest and most marginalized people in society all too often continue without access.”<sup>11</sup> Human-rights law requires that States guarantee substantive equality by taking affirmative measures to eliminate existing inequalities. Disaggregating data is a key step toward identifying which groups are left behind. State obligations to promote equality and non-discrimination must guide efforts to disaggregate the data. Data collection on

water and sanitation efforts should also aim to satisfy the parallel inequality targets States should meet under SDG 10: to “empower and promote the social, economic and political inclusion of all” (10.2) and to “ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard” (10.3).

### **Attempts to create justifications for privatization; lack of public financing**

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Policymakers and advocates must be wary of increased requirements for outputs without adequate public financing. Interested parties can use this situation as a justification for seeking private-sector solutions. Experience has shown how privatization can undermine and frustrate a government's ability to ensure the human right to safe drinking water and sanitation for all. The for-profit model is inherently focused on increasing water consumption, on getting access to those that would be easiest to reach, and on imposing harsh consequences for those that are unable to pay. There is also no incentive to commit to sustainability of services beyond their engagement. This all runs contrary to the legal, ethical, and practical imperative to focus on the most marginalized. Moreover, a weak state may not be able to effectively hold a large corporation accountable to development promises. There are significant gaps in existing national and international legal frameworks for pursuing accountability against transnational corporations for human rights abuses.

The 2030 Agenda must not become a catalyst for the privatization of water and sanitation services. Target 17.17 is trou-

bling because it calls on states to “encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships.” Vigilance is urgent here as there is compelling, robust evidence that public-private partnerships in the water and sanitation sector are detrimental to guaranteeing these human rights in a non-discriminatory and sustainable way.

### **International cooperation restricted only to self-interested ODA**

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Overseas development aid (ODA) is often strongly tied to a neoliberal agenda clashing with human rights obligations. Conditions placed on loans have served to pry open markets for foreign investors and prevent governments from investing in public services. While ODA is greatly needed to address funding gaps in a small number of least-developed countries, the vast majority of states need more urgently instead the economic sovereignty and political will to ensure greater public financing for basic services. Therefore global tax justice and debt relief strategies would go much further toward enhancing the capacity of states to finance water and sanitation services that serve the public interest rather than the needs of foreign investors or donors. The call for international cooperation must not be restricted to official development assistance but include these broader strategies.

### **Market-based conservation strategies**

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SDG 6 includes indicators of environmental conservation such as good ambient water quality and ecosystem restoration

and protection. However, if these indicators do not include procedural guarantees informed by human rights law they could tend to favor what are called “market environmentalist measures.” These measures can include putting a price on nature and ecosystem services as a way to limit access. These efforts prioritize commercial users and dispossess land-based communities and indigenous peoples outside of the global market and whose lives and livelihoods traditionally depend on these ecosystems<sup>12</sup>. One example is “wetland banking,” a sort of pricing and payment for ecological services, which allows investors to contribute to conserving wetlands in one area as mitigation for destroying the watersheds in another. It is not difficult to see how this type of approach completely disregards the rights of frontline communities impacted by the water pollution and depletion. Therefore, all market-based conservation strategies should raise a red flag and be held up to strict scrutiny against the backdrop of the human rights framework and the actual aims of sustainable development.

### **A narrow focus on water efficiency**

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An emphasis on efficiency is important but insufficient. Insistence on efficiency is a red flag because it tends to divert attention away from deeper, persistent problems—namely the urgent need to examine how water resources are distributed. An emphasis on efficiency generally is proposed in the absence of carrying out an inquiry into where overuse and abuse is occurring and identifying which uses are sustainable (non-consumptive, water stays in local systems) and which are unsustainable (consumptive, water is permanently removed). Therefore, the emphasis on efficiency signals an approach that favors the status quo and that is unwilling to challenge the unsustainable

and unjust manners in which watersheds are being depleted and destroyed by a powerful few while resources are denied to marginalized and vulnerable segments of the population.

To focus on efficiency alone would do little to address the root causes of the water crisis, which are related to the allocation of scarce water resources. Efficiency must instead be one component of a comprehensive plan for sustainable withdrawals that takes into consideration the social, economic, and environmental needs of local populations. Measuring water-use efficiency over other considerations could prioritize “high value” use of water in terms of contribution to GDP growth targets. While measuring water stress and ensuring that withdrawals do not exceed watershed capacity will be important, water justice organizations have also called for a hierarchy of water use that prioritizes environmental needs and human rights (including water for productive purposes) above commercial use. First, supplies must be safeguarded for basic human needs and sustaining ecosystems.

Policymakers and advocates must be alert so that scarcity concerns are not translated into giving priority to the question of water-use efficiency over socially and environmentally sustainable uses. A narrow focus on efficiency without overarching considerations of just and sustainable allocation of scarce water resources will not address the root causes of the water crisis—quite the opposite.

## Integrated water resources management

The widely referenced definition of integrated water-resources management (IWRM) is: “IWRM is a process which promotes the coordinated development and

management of water, land and related resources, in order to maximize the resultant economic and social welfare in an equitable manner without compromising the sustainability of vital ecosystems.”<sup>13</sup> Despite its appealing name, this concept has been used to promote market-based resource management measures that have prioritized the large-scale commercial user of other users.

While some promote IWRM as a silver bullet solution<sup>14</sup>, many have raised concerns that it is a vague “catch-all” concept that has been inconsistent in application<sup>15</sup> and that its one-size-fits-all strategies have ignored local knowledge, norms and realities<sup>16</sup>. Water justice groups have expressed strong concerns regarding the uncritical promotion of integrated water resources management as an SDG target.

International financial institutions have promoted IWRM as a solution to the water crisis since the 1990s. IWRM is broadly based on the premise that the river basin or catchment is the most appropriate unit for water resource management. While water justice organizations generally support the idea of cooperation among users within a catchment area, the decentralization of water-resource management from national governments to catchment areas has had adverse effects in many parts of the world, by handing regulatory powers over to multi-stakeholder bodies with limited capacity to monitor environmental impacts or whose interests do not represent those of the broader public.

It is critical that policymakers and advocates keep a critical eye on the promotion of IWRM and insist on human rights-based water-resource management strategies that prioritize the participation and protagonism of rights-holders in decision-making and do not allow the process to be dictated by corporate stakeholders.



## Notes

10. Ned Breslin, Few Celebrating MDG Success in Water, Huffington Post, [http://www.huffingtonpost.com/ned-breslin/clean-water-millennium-development-goal\\_b\\_1343292.html](http://www.huffingtonpost.com/ned-breslin/clean-water-millennium-development-goal_b_1343292.html).

11. Statement by Ms. Catarina de Albuquerque, Special Rapporteur on the Human Right to safe drinking water and sanitation to the Thematic Debate of the General Assembly “Water, Sanitation and Sustainable Energy in the Post-2015 Development Agenda”, (Feb. 2014), [http://sr-watersanitation.ohchr.org/en/statement\\_GA\\_Debate\\_%20Post2015\\_session.html](http://sr-watersanitation.ohchr.org/en/statement_GA_Debate_%20Post2015_session.html).

12. <http://www.theguardian.com/environment/georgemonbiot/2014/jul/24/price-nature-neoliberal-capital-road-ruin>

13. Integrated Water Resources Management in Action. WWAP, DHI Water Policy, UNEP-DHI Centre for Water and Environment. 2009 (citing Global Water Partnership’s definition).

14. Global Water Partnership, What is IWRM?, <http://www.gwp.org/The-Challenge/What-is-IWRM/>.

15. See e.g. Timothy Moss, “Managing water beyond IWRM – from paradigm to pragmatism,” Presentation to 1st Water Research Horizon Conference. Berlin. 13-14 July 2010.

16. See Francois Molle, “Nirvana Concepts, Narratives and Policy Models: Insights from the Water Sector,” *Water Alternatives* 1(1): 131-156. 2008.



# Monitoring: Rights-based/Water-justice Litmus Test

This four-step litmus test will help policy-makers and advocates assess water-related policy proposals in light of States' international human-rights obligations and to articulate concerns and alternatives for increased compliance. This test is adapted from the NGO Mining Working Group's Rights-based Litmus Test<sup>17</sup> and the Handbook on the Rights to Water and Sanitation by the former UN Special Rapporteur, Catarina de Albuquerque<sup>18</sup>.

Each of the four levels of inquiry has a set of example questions below. We encourage civil society groups and policy-makers to assess and monitor the implementation of the human rights to water and sanitation through these lenses. For additional guidance, we encourage organizations to consider these questions together with the Committee on Economic, Social, and Cultural Rights' General Comment 15.

## **Do no harm**

### **Does the option undermine the conditions necessary to guarantee the human right to water or other rights?**

- weaken a State's ability to effectively fulfil its obligations to respect human rights to water and sanitation and to protect them from actions by private actors?

Rights-based Litmus Test at a Glance		
Step	Principle	Inquiry
Do no harm	Obligations to respect and protect	Does the option undermine the conditions necessary to guarantee the human right to water or other rights?
Realizing rights	Obligation to promote and fulfil	Does the policy effectively advance the enjoyment of the human rights to water and sanitation by all?
Participation and accountability	Participation and access to justice; self-determination	Can affected communities and concerned civil society participate effectively in decision-making and access justice/remedies for harms?
Sustainability	Rights of future generations	Does this option further or hinder the ability of future generations to enjoy their rights to water or any other human right?

- weaken a State’s ability to fulfil its obligations to ensure that the human rights to water and sanitation are progressively realized on a non-discriminatory basis (including availability, accessibility, quality, affordability and acceptability)?
- reinforce global power dynamics of natural resources flowing out of developing economies toward wealthy ones?
- aggravate or entrench the obstacles that keep people from fully enjoying the rights to water and sanitation?
- result in direct or indirect violations of related human rights, including the rights to life, health, food, right to land and control over productive resources, right to livelihood, right to self-determination (including free, prior, and informed consent), or cultural life?
- undermine efforts toward reaching another SDG or target?
- threaten to damage vital ecosystems or the Earth’s carrying capacity?
- pose a differential or disproportionate risk to disadvantaged or marginalized groups—e.g. women, children, indigenous peoples, migrants and refugees,

- people living in poverty, or people living in rural areas or informal settlements?
- include sufficient measures and conditions to monitor whether the policy does in fact have any negative impacts?
- contemplate a public human rights impact assessment during the process of formulation and after a period of implementation?
- include sufficient incentive and enforcement measures for private actors to actually protect people and water resources from harm in practice, where protection and mitigation are possible?
- contemplate that all relevant partnerships with the State are designed and agreed in compliance with human-rights standards to prevent and monitor any harm or abuse?

### Realizing the rights

#### Does the policy effectively advance the enjoyment of the human rights to water and sanitation by all?

- conceive of and guarantee water and sanitation as human rights, with the re-

- quirements of availability, accessibility, quality, affordability and acceptability?
- prioritize personal and domestic uses over other uses?
- have as its actual intent or effect to increase basic access and progressive realization of safe and sustainable water, sanitation, and hygiene for all?
- concretely increase a State’s ability to fulfil its obligations to ensure the human right to water and sanitation are progressively realized on a non-discriminatory basis (including availability, accessibility, quality, affordability and acceptability)?
- specifically prioritize the most disadvantaged or marginalized in terms of adequate access to water and sanitation?
- properly identify who is suffering deprivations and understand and address the barriers and reasons for lack of access?
- contribute toward ensuring people have the resources, capabilities, choices, security, and power necessary for the enjoyment of their human rights to water and sanitation, and other rights?

- include sufficient measures and conditions to monitor whether the policy produces the positive contributions intended?
- contemplate that all partnerships with the State designed and regulated so as to ensure that the relationship does in fact contribute to increasing access, guarantee affordability, eliminate inequalities, and ensure water quality?

## Participation and accountability

### Can affected communities and concerned civil society participate effectively in decision-making and access justice/remedies for harms?

- ensure meaningful participation—for potentially affected communities, marginalized groups, and the interested public—at all levels of decision-making?
- enjoy conditions that allow affected communities and human-rights defenders to safely exercise their rights, free from direct or indirect coercion, obstruction, inducement, manipulation, or intimidation?
- require public bodies to provide access to information necessary for people to effectively participate in decision- and policy-making?
- ensure information on the state of the environment and/or human health issues, and on policies and measures, are made public and disseminated immediately to members of the public who may be affected?
- require business enterprises to provide information on the potential or actual

impact of their operations on the human rights to water and sanitation?

- include a participatory approach to monitoring and oversight?
- enjoy the support of a body that monitors the human rights to water and sanitation at the national and local levels?
- guarantee effective remedy if harm does occur – including restitution, compensation, legally binding assurances of non-repetition, and corrective action?
- guarantee remedies for extraterritorial claims?
- contemplate that any partnerships with the State include sufficient conditions and monitoring mechanisms to guarantee participation, access to information, and accountability for harms?
- ensure that the State is willing and able to hold service providers fully accountable for any harms of action or omission that may be caused?

## Sustainability

### Does this option further or hinder the ability of future generations to enjoy their rights to water or any other human right?

- have a positive or negative project impact on future generations' ability to enjoy their rights to water and sanitation, based on available evidence?
- present any uncertainties about the immediate and long-term impacts and who bears the burden of the risks?
- include plans to improve services continually over time?

- allow for maintaining, improving, and expanding systems and balance infrastructure spending vs. operation/maintenance/repair spending, so as to ensure the sustainability of existing systems?
- include adequate planning and assurances for resilience in times of crisis?
- include monitoring and accountability mechanisms in place to deal with unsustainable and retrogressive practices?
- ensure that the, State in its management of relationships with other local and international development actors for water and sanitation service delivery, includes strategies for sustainability?



## Notes

17. Mining Working Group, *A Rights-based Approach to Natural Resource Extraction in the Pursuit of Sustainable Development*, available at <https://miningwg.com/resources-2/mwg-advocacy-brief/>.

18. See e.g. Checklists, <http://www.righttowater.info/wp-content/uploads/BOOK-8-CHECKLISTS-WEB-LR.pdf>.



# Channels for Advocacy at the UN

HUMAN RIGHTS MONITORING CAN CONTRIBUTE GREATLY TO MEASURING DEVELOPMENT PROGRESS. HUMAN-RIGHTS ASSESSMENTS AND REPORTING ALLOWS FOR A QUALITATIVE ASSESSMENT THAT IS NECESSARY TO DETERMINE WHETHER, AND WHO, IS LEFT BEHIND BY DEVELOPMENT POLICIES.

Importantly, the UN human rights system provides important guidance for monitoring States' actions and omissions. It also offers civil society important channels and levers for advocating at the local, national, and international levels for a coherent focus on realizing human rights, eradicating systemic poverty and inequality, and promoting the common good.

For a primer on using the UN human rights system, see the OHCHR's handbook and connect with allies specializing in this system.

## Special Procedures

Special procedures are independent experts with mandates to monitor and intervene on particular human rights issues. There is a Special Rapporteur on the hu-

man rights to water and sanitation. Several special procedures have mandates relevant to advocating for policies that would favor water justice: for example, right to food, right to housing, rights of indigenous peoples, health, human rights and the environment, hazardous wastes and chemicals, working group on business and human rights, violence against women, education, rights of the child.



## Actions

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- Review recommendations special rapporteur has made to your country on a past visit and advocate for full implementation in context of SDGs
- Review general thematic recommendations or guidelines the expert has produced and assess your government's SDG efforts
- Communicate directly with expert to denounce systemic violations or deprivations related to SDG implementation
- Participate in interactive dialogues with special procedure at the Human Rights Council

## Universal Periodic Review

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The Universal Periodic Review (UPR) is a peer-review process in which countries review each other's human rights situation with participation by civil society. This is a relatively accessible mechanism and because all dimensions of a State's human-rights obligations are relevant for the review this can be a helpful space to raise concerns about State efforts or

omissions, or constraints on a State's ability to act, related to SDG 6.

- If your country's UPR is upcoming, prepare a written report documenting the concerns and advocate other States to raise your recommendations during the review. Participate in consultations with the government to connect the SDG targets to the UPR process.
- If your country has recently had the UPR, identify which recommendations are related to proper implementation of SDG 6 (outcomes of the rights to water and sanitation, discrimination, efforts access and use maximum available resources, accountability of private actors, rights to participation and access to information, etc.). Advocate at the local, national, and international level connecting the UPR recommendations and SDG targets.

## UN Treaty Bodies

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Several of the core international human rights treaties govern a States actions or omissions related to SDG 6. The International Covenant on Economic, Social, and Cultural Rights, the Convention on the

Elimination of all forms of Discrimination against Women, and the Convention on the Rights of the Child have explicit jurisprudence considering the rights to water and sanitation. The Convention on the Elimination of all forms of Racial Discrimination and The International Covenant on Civil and Political Rights have also considered access to water in the context of discrimination and the right to life.

- Visit your OHCHR country page to see most recent pronouncements by UN Treaty Bodies for your country. Identify which observations and recommendations are relevant to promoting a water-justice approach to SDG 6. Incorporate these into SDG advocacy and advocacy before other human-rights channels.
- If your country is coming up for review by a body, join human rights coalitions to ensure that SDG efforts related to water are including in the civil society advocacy.

The High Level Political Forum on the SDGs and the Voluntary National Reviews can also be opportunities to advocate for a human rights based approach to the implementation of SDG 6.



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