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Water and Sanitation: Only a Human Rights Approach Will Do

Economic globalization policies – part of a global structural adjustment agenda that finds its most boisterous proponents among the wealthy nations of the world – have lent momentum to an ongoing movement toward privatization and commodification of basic services, such as water and sanitation. This phenomenon, now widely assumed to be irreversible, coupled with the inability of governments to provide their citizens with affordable access to such services, tends to have a disproportionately severe impact on those most vulnerable segments of the population, the poor and socially marginalized.

Water, essential to human life and all life on the planet, is part of the global commons and arguably the most quintessential of all collective resources. It is not a private commodity to be bought, sold or traded for profit – an exclusive luxury accessible to a few and elusive to the majority. This fundamental principle is clearly articulated in the General Comment No.15 (2002) of the UN Committee on Economic, Social and Cultural Rights, which says that:

“Water should be treated as a social and cultural good,” and that “investments should not disproportionately favour expensive water supply services and facilities that are often accessible only to a small, privileged fraction of the population, rather than investing in services and facilities that benefit a far larger part of the population.”

The human rights of people and communities to housing, water and sanitation – long recognized as indivisible, and guaranteed under international law – continue to be eroded as the processes of privatization become more entrenched and quicken in pace. While the promise of economic globalization to help alleviate want and reduce poverty may exist in the abstract, its basis on the Washington Consensus and reliance on a theory of presumed trickle-down benefits find little basis in history. The time has come to rethink current global economic and social policies, and the perverse and brutalized neo-liberal logic that underpins them, and reaffirm our commitment to the human rights principles and standards that offer the only real paradigm for improving the lives of millions of the poor.

The consequences of having inadequate or no access to water, while universally devastating, tend to be more acutely felt by women and children. When water is not readily available, it is principally women and children who are charged with the burdensome responsibility of its collection, often expending inordinate amounts of time and energy in the process. This has a detrimental impact on their health, security and education. While the lack of sanitation facilities affects both men and women alike, sanitation needs and demands tend to differ as a function of gender. Women have particular needs and concerns of privacy, dignity and personal safety, and the lack of sanitation facilities in the home can force women and girls to use secluded places, often at great distance from the home, thereby exposing them to heightened risk of sexual abuse. Furthermore, lack of accessible basic services can often lead to or further exacerbate tense and stressful relations within the home, increasing women’s vulnerability to domestic violence.

Privatization of water and sanitation services warrants close scrutiny when assessing the impact of globalization on not only the right to adequate housing in particular, but in a broader sense on the extent of States’ compliance with their legal obligations under various international and human rights treaties

and guidelines. By transforming a basic social service and scarce resource into an economic commodity, the world's economic and policy planners are operating under the myopic macroeconomic assumption that existing water resources can be managed and consumed efficiently in accordance with competitive market principles. Let us not be naïve. A consideration of the three major criticisms of privatization will readily dispel any notion that the basis of such an assertion is to be found in reality: private businesses put too much emphasis on profits and cost recovery; services to vulnerable groups are inadequate and of poor quality; and private operators are not accountable to the public. What's more, the lack of capacity, or willingness, on the part of States to regulate the operations of private providers only magnifies the above outlined shortcomings of privatization.

There is an acute need to strengthen participatory monitoring mechanisms, as processes of privatization are extremely difficult to reverse once implemented, and corporations enjoy formidable legal recourse through multilateral trade agreements. Consequently, the expansion of any such agreements, such as the World Trade Organization General Agreement on Trade Services (GATS), which led to the privatization of social services and the entry of corporations into the arena of providing social goods such as water, will only serve to exacerbate an already adverse situation. The right to an effective remedy for anyone whose rights have been violated cannot be contracted away by the State nor denied by the operations of intergovernmental institutions. Investment or trade bodies should not adjudicate concerns that fall firmly within the ambit of human rights as if they were simply disputes between corporations and state actors. Any violation should, and must, be dealt with through the relevant human rights enforcement mechanisms that seek the integration of human rights obligations into national and international policy making, thereby establishing a clear and positive precedent for the future.

Of equal or greater importance is the need for sustained vigilance at each stage of this protracted campaign, to actively safeguard against the collateral erosion of other human rights during the ongoing effort to achieve the Goals. The effort at improving the living conditions of some, by way of slum upgrading projects, for example, must not lead to the breach of human rights of others, such as through forced eviction or the now rampant phenomenon of land-grabbing in all of its forms. A human rights approach must both inform the normative discussion, as well as guide the processes surrounding efforts to achieve the Millennium Development Goals. Such a strategy, coupled with existing international human rights treaties, declarations and guidelines, provides a framework through which the formulation of responsible economic policies for the benefit of humankind can become a reality.

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