

Sanitation: A human rights imperative

"Clean water and sanitation are not only about hygiene and disease, they're about dignity, too. ... [E]veryone, and that means ALL the people in the world, has the right to a healthy life and a life with dignity. In other words: everyone has the right to sanitation." Prince Willem Alexander of the Netherlands, Chair of the UN Secretary General Advisory Board on Water and Sanitation.

The centrality of sanitation to development

2.5 billion people lack access to basic sanitation. Tellingly, the Millennium Development Goal sanitation target, to halve by 2015 the proportion of people living without access to sanitation, remains the most off-track of all the MDG targets. The impact of a lack of sanitation on health, education and economic growth is profound. Every day, at least 5,000 children under the age of five die due to diarrhoea, a disease directly related to poor sanitation. Lack of adequate sanitation in schools is a critical barrier to school attendance, particularly for girls. The resulting economic cost to individuals and to governments of ill-health and under-education is at least nine times greater than the cost of addressing this problem.



WaterAid/Caroline Irby

What is sanitation in human rights terms?

Sanitation is access to, and use of, excreta and wastewater facilities and services that ensure privacy and dignity, ensuring a clean and healthy living environment for all.

'Facilities and services' should include the collection, transport, treatment and disposal of human excreta, domestic wastewater and solid waste, and associated hygiene promotion.

Specifically, to meet human rights requirements, sanitation must be:

- **Safe:** Sanitation must effectively prevent human, animal and insect contact with excreta. Toilets (including latrines) must provide privacy and a safe and dignified environment for all. Water must be available for good personal hygiene, and facilities for safe wastewater disposal must be in place.
- **Physically accessible:** Toilets must be within, or in the immediate vicinity of, each household, educational institution or workplace and available for use at all times of the day or night, along with associated services such as removal of wastewater and sewerage or latrine exhaustion. Appropriate facilities for use by children, disabled and elderly persons must also be available. In order to prevent disease, toilets must be available for and used by all persons in a particular locality.
- **Affordable:** Access to sanitation, including maintenance, must be affordable, without reducing the individuals or household's capacity to acquire other essential goods and services, such as food, education and health.
- **Culturally sensitive:** The construction and design of latrines should be culturally appropriate. Male and female public facilities, in particular in schools, need to be separate so as to ensure privacy, dignity and safety.

How do human rights address the sanitation crisis?

Addressing sanitation as a human right moves the focus from technical solutions to ensuring that the political and legislative frameworks are in place to ensure access to sanitation.

Recognising sanitation as a human right:

- Demonstrates that sanitation is a **legal entitlement**, not charity. Civil society can use the right to raise the political profile of the importance of access to sanitation services.
- Demands **accountability** of those responsible for ensuring sanitation is accessible to all. Individuals and groups can demand that this right is implemented through lobbying their governments, seeking redress from national human rights commission and courts or from international human rights mechanisms.
- Requires **information sharing** and **genuine participation** in decision-making. Although participation is now acknowledged as a development best practice, centralised planning processes remain prevalent, and can neglect the input of various users.
- **Focuses on vulnerable and marginalised groups**, who have been historically discriminated against or neglected, such as persons living in informal settlements.
- Defines **minimum requirements** for sanitation.
- Provides a framework and guidelines for the **development of and reforms to public policies and plans, to prioritise resources**, and to **monitor performance**.

What are government obligations to implement this right?

Governments have an obligation to respect, protect and fulfil the right, using the maximum of available resources to progressively realise the right.

Respect: Governments must not prevent people from accessing sanitation, for example, by arbitrarily interfering with customary or traditional arrangements for sanitation, without providing acceptable alternatives.

Protect: Governments are obliged to ensure that private individuals or groups do not prevent anyone from accessing safe sanitation, for example by charging excessively for use of toilets.

Fulfil: Governments must **facilitate** access by ensuring that appropriate standards and regulations are in place to assist individuals in constructing and maintaining toilets. Governments must **promote** the right through hygiene education and promotion. Where individuals or groups are unable to provide sanitation services for themselves, governments must **provide** the necessary assistance, including information, training and access to land.

Priority actions to be taken by governments include:

- Reviewing laws, policies, strategies and financing to ensure that sanitation is given sufficient priority, is treated as a right and that regulation is appropriate.
- Ensuring that marginalised and vulnerable groups have access to sanitation services.
- Ensuring that the most appropriate technical options for collection, transport, treatment, disposal or reuse of excreta are utilised.
- Making land available for the essential elements of ensuring sanitation, such as public sanitation blocks or local treatment plants.
- Ensuring, as a matter of urgency, that all people are reached by hygiene education that is customised to their needs.
- For wealthier countries, providing financial and technical assistance, with priority given to sanitation for the poor.

Individuals and groups have a fundamental responsibility in ensuring the right to sanitation, including by using available sanitation facilities. The right to sanitation does **not** require governments to:

- Provide free sewage or latrine exhaustion services free of charge for all. Individuals and households should be expected to contribute to the costs of services, which should be differentiated according to ability of households to pay.
- Construct household toilets. Governments should ensure appropriate regulations, an enabling environment and support to households, landlords, operators of public institutions and entrepreneurs to construct toilets suitable to the needs and preferences of users.
- Provide sewerage services for everyone. Different standards, such as toilets linked to septic tanks, pit latrines or ecological sanitation may be adequate and appropriate for certain environments.



What is the legal basis of the right to sanitation?

Legally-binding international treaties

- The International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by 158 countries, recognises the, "right of everyone to an adequate standard of living ... including adequate food, clothing and housing". Virtually all States that have ratified the ICESCR have twice acknowledged in political declarations that the right to an adequate standard of living also includes water and sanitation. The right to the highest attainable standards of health and the right to housing are also contained in the ICESCR. The UN expert body responsible for monitoring the ICESCR has confirmed that access to sanitation is required to realise these rights.
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) obliges governments to ensure that rural women have access to sanitation.
- The Convention on the Rights of the Child (CRC) recognises the right of all children to an adequate standard of living. The UN expert body responsible for monitoring the CRC has clarified that this entitlement includes access to clean drinking water and latrines.
- The UN Human Rights Council adopted a resolution in March 2008 emphasising that international human rights law, including the ICESCR, CEDAW and CRC entail obligations in relation to access to sanitation.
- The 1949 Geneva Conventions entitle prisoners of war and civilian internees to access to sanitation in situations of armed conflict and occupation.

Political declarations

Virtually all governments have recognised the right to sanitation in a political declaration.

- The 1994 Programme of Action of the Cairo Conference on Population and Development, unanimously endorsed by 177 States, and the 1996 Habitat Agenda, unanimously endorsed by 171 States, recognise that the right to an adequate standard of living includes water and sanitation.
- In December 2007 at the 1st Asia-Pacific Water Summit, 37 countries from the region endorsed the "Message from Beppu", which recognises "the people's right to safe drinking water and basic sanitation as a basic human right".

National law

- Eight countries specifically recognise the right to sanitation in their Constitution, national legislation or in their sanitation policies. These are Uruguay, South Africa, Honduras, Bolivia, Algeria, Bangladesh, Kenya and Sri Lanka.
- The laws of many countries include specific government obligations to ensure sanitation and hygiene. Examples include Colombia, Ecuador, Iran, Madagascar, Mauritania, Mozambique, Indonesia, Armenia and Ukraine.
- The Supreme Courts of India and Bangladesh have held that access to sanitation is part of the right to life.

International expert reports

- The UN Sub-Commission on the Protection and Promotion of Human Rights, a body of experts advising the UN Human Rights Council, adopted Guidelines on the realisation of the right to drinking water and sanitation in 2006.
- On request of the UN Human Rights Council, the UN High Commissioner for Human Rights prepared a report on the scope and content of the relevant human rights obligations related to drinking water and sanitation. The report concluded that, "it is now time to consider access to safe drinking water and sanitation as a human right".



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Priority actions for civil society

- Lobby governments to confirm their recognition of sanitation as a human right and to implement the necessary obligations in policies and legislation.
- Inform individuals and other civil society organisations of government obligations, promote monitoring of government obligations and lobbying of governments.
- Inform individuals and communities of their own responsibilities, including through education and promotion of good hygiene practices and provision of information on the proper construction and use of appropriate toilets.

Priority actions for international organisations

- Ensure that policies, strategies, loans and grants comply with and promote the right to sanitation.
- Prioritise funding strategies for those who do not currently have basic access to sanitation, rather than giving priority to those who already have basic access.

Further information and resources

The full version of *Sanitation: A human rights imperative* provides detailed information, including on:

- Legal basis of the right to sanitation;
- Standard setting for particular environments;
- The definition of sanitation generally, and in human rights terms;
- How governments can fulfil their obligations on the right to sanitation;
- How the right to sanitation can help meet the sanitation MDG.

Both the full and summary versions of this publication are available at www.cohre.org/sanitation in English, French and Spanish. Comments may be sent to Virginia Roaf (virginia@cohre.org).

See also

Manual on the Right to Water and Sanitation:

www.cohre.org/manualrtws

Legal resources for the right to water and sanitation:

www.cohre.org/legalresources

Tackling the Silent Killer - the case for sanitation:

www.wateraid.org

Partners

- Centre on Housing Rights and Evictions (COHRE): www.cohre.org
- Swiss Agency for Development and Cooperation (SDC): <http://www.sdc.admin.ch>
- United Nations Human Settlements Programme (UN-HABITAT): www.unhabitat.org
- WaterAid: www.wateraid.org