



# Realising the right to water: challenges and contradictions

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# Is there is human right to water?

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- The right to water is implicitly mentioned in the 1948 Universal Declaration of Human rights and is explicitly mentioned only in the Convention of the Rights of the Child (1989).
- General Comment No. 15 states explicitly that the right to water is a human right and that responsibility for the provision of sufficient, safe, affordable water to everyone, without discrimination, rests with the state.
- Right to water very controversial on many fronts. 'Indivisibility' of rights not recognised in practice.
- In the water debate, dominant narratives are happier to see water as an economic good rather than as a human right.



# The Case of South Africa

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- South Africa stands alone internationally in endorsing the constitutional right to water
- 2001: Free Basic Water Policy (6000 litres of safe water per month to all households free of charge or 25 litres per day per person for free)
- Water Services Act 108 of 1997;
- Funded by 'Equitable Share' – Rand 3 billion a year



# Dancing to the two tunes of rights and markets?

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- IFI Influence and 'behind the border' policy convergences (e.g. cost recovery, user fees, state as regulator rather than provider, privatisation)
- Shift from Reconstruction and Development Programme (RDP) thinking with commitments to welfare and entitlements to Growth, Reconstruction, Employment and Redistribution macro policies (GEAR)
- Since 1997, controversial cut offs (250,000 to 10 Million) and hikes in water tariffs
- Widespread protests in townships and debates on the legality of cut offs in the light of FBW. Shouldn't the right to a basic level of water exist notwithstanding the ability to pay?



## Implementing FBW: the case of the Eastern Cape

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- Implementation rests with local authorities or designated water services providers who interpret it according to the resources and capacity available
- In the former Transkei – massive backlog due to apartheid legacies and poor financial and institutional resources
- Cost recovery not very realistic
- BOTW (expensive, underutilised and outside expertise)



# Impacts and Trade offs

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- Clearly frees women from time wasted in collecting water and health benefits for the whole community
- No standardised response to FBW and variable implementation and responses – from confused officials to slick consultants;
- About 50% of South Africa's poor still do not enjoy FBW. Many are not aware of their constitutional right to water
- 25 litres of water a day only for domestic supply. Inadequate for livelihood security, cultural events, poverty reduction



# Lessons and challenges

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- Despite currency of RBA, many marginalised people still lack access to basic rights
- Sins/ acts of omission (poor states may not prioritise the imperative to provide water for all; lack resources and capacity)
- Paradoxical outcomes out of dual commitments to rights and markets?
- How finance the human right to water (in the light of poor cost recovery, low budgetary allocation and decentralisation)?
- Mobilisation around rights



## Lessons and challenges (contd)

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- Inadequate information about rights
- Fuzziness around responsibilities/ duty bearers
- How define what is sufficient and what determines the human right to water?
- Customary perceptions of the human right to water absent