

UNDERSTANDING THE HUMAN RIGHTS PRINCIPLE OF USING 'MAXIMUM AVAILABLE RESOURCES'

Realizing the human rights to water and sanitation and achieving the water and sanitation targets of the SDGs requires more than political commitments. Success relies on deploying significant financial and other resources. The human rights to water and sanitation are not just a declaration of political intent: they enshrine specific obligations relating to participation, access to information, accountability, non-discrimination and equality – and to financing.

The International Covenant on Economic, Social and Cultural Rights, obliges States to ensure that sufficient resources are committed for the realization of all their human rights:

*“Each State Party to the present Covenant undertakes to **take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.**”*

Resource constraints do not justify inaction

While States are not always in a position to commit the necessary resources to realize all of their human rights obligations immediately, they must be able to demonstrate that they are working towards full realization through their policies, strategies and plans and through identifying financial and other resources to realize human rights progressively over as short a timeframe as is reasonable.

Putting human rights and the focus on the elimination of inequalities at the centre of any discussion on financing and resource management requires a conversation that is broader than the usual concerns of economic efficiency and cost recovery. It necessitates a recognition of the intrinsic value of ensuring that everyone has access to adequate services, as expeditiously and efficiently as possible. Ultimately,

while universal access to sustainable and resilient service provision may be a costly undertaking, it is costlier by far for both economic and human development when people do not have access to these basic services.

Building the necessary alliances to support the realization of human rights requires advocacy grounded in human rights law, and strategies that place reducing inequalities and delivering human rights for all at their heart.

The principle of using maximum available resources for the realization of the human rights to water and sanitation are explored in more detail in [SWA's Briefing Note “The human rights to water and sanitation”](#), available of SWA's website.



THE ROLE OF THE STATE

As ratifiers of human rights covenants and treaties, States hold the primary obligation to realize human rights and must consider the following points to maximize resources to realize human rights:

Government revenue

States must be able to show they are raising sufficient financing over a demonstrable timeframe. This can include direct household contributions and tariffs, taxes, and transfers from external sources.

Government budgeting and expenditure

Human rights and the prioritization of people without adequate access should be central to resource planning and allocation.

Development assistance

Where national resources are insufficient to realize the human rights to water and sanitation, States can and should seek assistance from external sources.

Debt and deficit financing

Debt repayments can become a significant burden, leading to a violation of human rights. This must be carefully considered by creditor and debtor States.

Monetary policy and financial regulation

How States manage monetary policy and financial regulation has an impact on how much financing is available for the realization of human rights. This includes measures to counter corruption.

Monitoring compliance with the obligation to use 'maximum available resources'

Monitoring through examination of policies and budget allocations is critical for holding governments to account. Other stakeholders can also play a critical role through monitoring service levels and budgets through local, national and global processes.

Non-discrimination and reducing inequalities

This should be approached as a defining, cross-cutting aspect of budgeting, expenditure, and review. States seldom prioritize investments in services for people living in informal urban settlements, or in remote rural areas. People living in these areas often end up paying more for substandard services than richer population groups pay for their formal services. States must work to redress these inequalities, including through committing additional financial resources.

THE ROLE OF NON-STATE ACTORS

While States are the primary duty-bearers, with human rights obligations, other stakeholders have significant roles to play.

External Support Agencies

Donor countries have extra-territorial obligations to support countries that are lacking in sufficient resources to realize human rights. They must ensure human rights are not violated through their development assistance and should also encourage the co-ordination and collaboration of efforts between donors. Foundations and other private sector financing bodies must not violate the human rights to water and sanitation, and should contribute where they can to their realization. Investors must consider the financial capacity of recipient countries to repay debts while upholding their obligations to ensure basic services, particularly for vulnerable and marginalized people.

Regulators & Utilities

Regulators and utilities are directly fulfilling State obligations to realize the human rights to water and sanitation, and both play a role in ensuring that government expenditure is effective and efficient. Regulators also have a role in monitoring how budgets are targeted and spent.

Private Sector

Privately owned or managed utilities have the same responsibilities as public utilities, as outlined above, and the regulatory framework applies. Shareholders should not be receiving profits from service provision where some of the population are not able to access essential services. Private sector engagement in water and sanitation service provision must be transparent, with inclusivity, sustainability and accountability built in to ensure the protection of human rights.

Civil Society Organizations

Where civil society organizations are involved in direct service provision, they must comply with human rights standards and principles. There are also many opportunities for civil society to get involved in with advocacy on the principle of 'maximum available resources', including through holding governments to account on their financing and budgeting plans.

Research & Learning Institutions

There are many areas of research to explore to help ensure States are using maximum available resources. Critical topics include accessing and analyzing how services are financed, the contributions that can be made through tariffs and other household contributions, and the role of the State where market-driven approaches are not sufficient.