AquaFed Working Group:
“Human Rights to safe drinking Water and Sanitation”

The Human Rights to safe drinking Water and Sanitation, as viewed by Private Water Operators: Common Understanding and Practical Contributions
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During the 6th World Water Forum in 2012, AquaFed made an important commitment to improve and provide accurate information about the needs for improving water and sanitation services, in particular to implement the human rights to safe drinking water and sanitation. Following this, AquaFed members decided to set up a working group dedicated to tackling this issue.

This preliminary report of this working group reflects this engagement, and intends to present the point of view of Private Water Operators (PWOs) on the Human Right to safe drinking Water and Sanitation (HRTWS) and the active role they are willing to play in its promotion.

1. Implementing the The Human Right to safe drinking Water and Sanitation constitutes an enormous challenge in which Private Water Operators have a role to play

1.1 The RTWS now has a clear legal framework at UN Level

Echoing UN’s Millennium Development Goals’ (MDGs) strategy of eradicating global poverty, which drove action to ensure safe water and sanitation access throughout the world, the General Assembly of the United Nations took a decisive step by recognizing “safe and clean drinking water and sanitation access” as a human right in the resolution 64/292 of July 2010. This was backed by the Office of the High Commission on Human Rights (OHCHR) resolution A/HRC/15/L.14 of 24 September 2010. By formally acknowledging this human right, the United Nations recognized for the first time that access to safe drinking water and sanitation was essential to the realization of all human rights (health, welfare, education and socio-economic development).

On 25 September 2015, the UN General Assembly adopted an ambitious 2030 Development Agenda, which included 17 Sustainable Development Goals (SDGs). The 6th SDG puts the emphasis on “ensuring availability and sustainable management of water and sanitation for all”. It comprises 6 specific targets and highlights the notions of affordability and of equitable access to water and sanitation.

Whilst the whole concept of the SDG’s is based on a human rights approach, it is important to note that the human right to water is the only right that is mentioned specifically in both the 2030 Agenda for Sustainable Development vision document and the related Addis Ababa Action Agenda.

1.2 The challenges of implementation are huge, and exacerbated by climate change issues

Despite the progress made so far on the MDG objective to “halve the proportion of the population without sustainable access to safe drinking water and basic sanitation”, the global needs are still unsatisfied and enormous. The situation is deteriorating quickly as water demand will keep growing
very fast, driven by urbanization\(^2\), agriculture\(^3\) and industry\(^4\), especially in emerging and developing countries that are experiencing fast population growth.

**Moreover, climate change impacts will widely exacerbate the pressure on water resources.** Chronic or even acute climatic events like droughts will reduce water availability in particular in countries which are likely to be exposed to hydric stress. On the other hand, heavy rains and floods will affect water and sanitation networks and delivery. It is crucial to ensure water and sanitation services sustainability through innovative and effective adaptation and mitigation solutions.

**AquaFed estimates that still more than 2 billion\(^5\) people in the world regularly use water that is unsafe and 2.5 billion people lack access to improved sanitation.** The WHO estimates that every year approximately 1.4 million children die from diarrheal disease, the vast majority of which is due to inadequate access to water, sanitation and hygiene. If we focus only on Europe, 19 million still do not have access to an adequately protected source of drinking-water\(^6\). Moreover, those who suffer the most of these water-related challenges are the urban poor, often living in slum areas or informal settlements. Given that they have no direct access to water, they have to pay a higher price for water that is often neither healthy nor safe.

As highlighted by Leo Heller - the UN Special Rapporteur on the human rights to safe drinking water and sanitation - in his report of July 2015, the implementation of the RTWS will be progressive. Therefore, both public and private stakeholders should focus on the needs of those who lack access to basic services first, and should be aware that results will be achieved at different paces according to countries, regions, cities and communities.

### 1.3 Alongside all other actors, Private Water Operators have a role to play

Apart from the climate-related issue, the current world is confronted with various interlinked challenges, including the growing urbanization and the need to better manage scarce resources.

The water and sanitation access for all issue is moving up the global political agenda, but there is a need for concrete actions that require the involvement of all actors. In this context, **AquaFed is willing to lead by example and take a proactive stance** in promoting sustainable allocation and management of water and sanitation services as key components of sustainable development for all. This strategy will be based on the five human rights principles of non-discrimination and substantive equality, participation, access to information, accountability and sustainability.

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\(^2\) Urban population represents 54% of worldwide population (7.2 billion people) and will increase to 65% by 2050 (WHO 2014)  
\(^3\) On average, 3 000 liters per person and per day are required to produce our daily intake of food (SE’s market and competition book 2014)  
\(^4\) The industry will experience the fastest growth in terms of volume of water withdrawn, with a 80% increase by 2030 (SE’s market and competition book 2014)  
\(^5\) WHO and UNICEF estimate that on any day 1.9 bn people use fecally-contaminated water. As many people use different water sources over time (in case of seasonal rainfalls or power shortages), the total number of people using unsafe water exceeds 2bn.  
\(^6\) WHO (Regional Office of Europe) Data and Statistics
In order to implement the HRTWS practically, AquaFed believes that Private Water Operators have a role to play in (i) implementing efficient and sustainable solutions when they are involved in a project, and in (ii) sharing their wide expertise, know-how and experience with other stakeholders.

The Federation promotes the option of private sector participation in water and wastewater management as a solution that public authorities can choose. PWOs are potential partners and solution-providers for public authorities.

2. **This process requires a coordinated approach based on clear allocation of roles and responsibilities**

Implementing the right to water requires partnering between multiple players. It demands to the **clear establishment of roles and responsibilities** between the stakeholders. In particular, the responsibilities delegated by a State to a service operator should be clear and detailed.

**2.1 Independent regulation is the cornerstone of building a long-term partnership**

Independent regulation is a prerequisite to any efficient and performant scheme that enables the authorities to guarantee the continuity and the quality of a service that serves the interests of all. Regulators should be in charge of assessment and monitoring, as acknowledged by the International Water Association Lisbon Charter, which recommends that regulators “supervise tariff schemes to ensure they are fair, sustainable and fit for purpose; promoting efficiency and affordability”.

*Figure 1 Stakeholders’ roles and responsibilities in the water and sanitation sector*
2.2 States parties are responsible for delivering water and sanitation services to the population.

Public authorities (i.e. contracting authorities) should be responsible for setting the most efficient framework to achieve the objective of HRTWS for all. Signatory States delegate their responsibility for progressive implementation to them, requesting that they strive to achieve (i) universal access by reaching more people and (ii) better levels of service that fully meet human rights standards.

2.2.1 A legally binding right

The UN resolution culminated when the UN Human Rights Council resolved, later in 2010, that “the human right to water and sanitation is part of international human rights and humanitarian law”. This right is now implicitly recognized as part of International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Rights of the Child (CRC) and the Universal Declaration of Human Rights (UDHR). Moreover, the recent adoption of the SDGs has reinforced this commitment at the international level. As a result, the Human Rights to safe drinking Water and Sanitation is now legally binding upon states, which have to provide national regulations and means of implementing it.

2.2.2 Decentralization

It starts at national level with a legal framework, laws, regulations and policies. Given that the water is a local resource, the principles of the integrated water resources management (IWRM) should be applied at regional level. Finally at local level, it involves choosing between different management models to find the most appropriate. The appropriate municipality or local authority either manages the service itself, using their own operator, or they delegate all or part of the management and risks to an external operator (public or private), with various contractual options.

2.3 The operator’s role is that of a solution-provider

2.3.1 The need for a clear and flexible contractual framework

As the operator acts on behalf of the public authorities, it is the State’s responsibility to provide all operators with a clear definition of progressive implementation and related intermediary milestones. The contractual or institutional relations should be endorsed through a time-bound contract or appropriate licence, which defines performance objectives and indicators.

It is therefore essential that operators act in a transparent manner, guaranteeing public access to information on the water service and stakeholder’s engagement for good governance of water services. The role of the operator is to fulfil its commitments in supplying optimal quality service, while caring for the environment and preserving natural resources.

The PWOs mandated by public authorities through Public-Private Partnership contacts (PPPs) play a significant role in this context, even though they are less numerous than public utilities. In order to assist public authorities in tackling the challenges linked to limited revenues, limited capacity for efficient
management and sub-standard quality water and wastewater services, PPPs provide custom-made and proven solutions.

When PPPs are well-designed, they can help achieve fast compliance with international standards and improve operational efficiency and economic sustainability, delivering benefits to both the populations and government. The two reports issued by the World Bank in 2009 respectively on the private sector participation in water distribution and on PPPs for Water urban utilities in developing countries have concluded that PPPs have enabled progress in extending access to drinking water, ensuring a more equitable water supply, improving the regularity of water supply, reducing water losses and in optimizing costs and securing the revenues necessary to finance the public water services.

2.3.2 A key advisory role

PWOs have the ability and the know-how to optimize networks and infrastructure to the benefit of the populations and the governments, hence contributing to the protection of the “common good”.

- Advisory role of the private sector as regards prioritization of investments in public infrastructure
  Providing universal provision of water and sanitation at SDGs standards and building resilient cities will inevitably increase financial needs (a study led by Lloyd Owen in 2011 estimates the costs between 171 and 205 US$ billion). PWOs are able to propose solutions to optimize both OPEX (and CAPEX in specific PPP models) to achieve long-term sustainability of quality water and sanitation services and ensure at least essential levels of service for everyone.

PWOs have a significant role to play in assisting public authorities in the prioritization of those investments.

- Adaptation to the growing demand and to the challenges of climate change and resource efficiency
  As professional experts in water and sanitation management, private operators are able to provide long-term sustainable solutions meeting the requirements in terms of adaptation to climate change and resource efficiency targets (e.g. through the optimization of the system, serving more people with less water and extending the system). These solutions are flexible and can adapt to the demand growth.

Ultimately, the ability to innovate technologically and socially according to the contexts provided by PWOs is crucial to tackle these challenges.

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7 The 36 largest PPP contracts in developing countries have enabled an increase of the population served by 50% in less than 10 years.
‘Water for all’ programs and the informality issue

Governments in emerging or developing countries across the globe are launching “water for all” programs, aiming to offer services to vulnerable populations (low income consumers, living mainly in informal areas).

A major challenge for public authorities consists in reaching the poor that are condemned to live with low levels of services (water, toilets, sewage systems, waste etc.). **PWOs have a key role to play in sharing their experience and best practices in the design and implementation of tariff policies ensuring social equity and of delivery systems in informal settlements.**

### 2.4 Citizens and users should also have rights and obligations

In order to provide sustainable solutions, public authorities and private operators should promote the active participation of citizens and ensure their access to information in determining mechanisms for allocating public financing and setting tariffs. Moreover, the operators (public or private) have to take care of water-users, taking into account their expectations, which go beyond the sole supply of good quality water.

For their part, citizens have to respect their contractual engagements, and should contribute to promoting sustainable development and the fight against climate change by respecting and paying attention to the interests of other citizens, the integrity of the service and the need to make water savings.

### 3. Implementing the HRTWS entails various dimensions, to which private operators can contribute within the framework of their contract

The definition of the RTWS embraces multiple aspects, and the RTWS should be considered a dynamic notion.

Following the work of the UN independent expert and the operational guidance provided by IWA. **AquaFed understands that the implementation of the HRTWS requires that drinking water is “affordable, accessible, available, safe, and acceptable to all” (the RTWS criteria). On top of these five dimensions, Aquafed thinks that ensuring appropriate governance is a key element for success, which should therefore be considered as a sixth dimension that includes the human rights principles of “non-discrimination, accountability, sustainability, public participation and transparency”**.
• AFFORDABILITY
As highlighted in goal 6.1 of the SDGs, ensuring access to drinking water services at an affordable cost (including all associated costs) is a prerequisite for the realization of the RTW, and the same applies for the human RTS. The objective is to keep access to water and sanitation affordable for all users in an economically sustainable way, through various mechanisms (differentiated pricing mechanisms, pro-poor subsidies etc.).

Knowing that the quality of services depends on sustainable financing and that the cost of the services is ultimately borne by users and taxpayers, it requires designing specific pricing policies and social measures to guarantee this right for low income households facing difficulties to pay their water bills, and also for the marginalized fraction of the population (homeless people, migrants, squatters). Public and private operators should ensure that these people do not suffer unjustified disconnections.

Example: social tariff programme in Limeira (Brazil)
- Operator: Odebrecht Ambiental
- Operations started in 1995 (contract : 30 years)
- Social tariff program launched through internal subsidies: subsidies are funded and delivered by the operator to 5000 families selected by the municipality on the basis of their income
- In addition, connection of 100% of the population to the sewerage system in 2004 and treatment of 100% of wastewater in 2011.

• ACCESSIBILITY / EQUALITY AND NON-DISCRIMINATION
The objective is to supply all citizens with a minimum quantity of water now and in the future, without regards to social condition. The launch of several “Water for all” programs in emerging and developing countries (e.g. in Mumbai (India) or Algiers (Algeria)) reflects this ambition.
Facilitating access to water means creating individual connections, public standpipes, limiting queues, etc. to reduce the time needed to collect drinking water. If water is not accessible on the premises, the route to fetch water and the facility itself should be safe.

Example: « social » connections in Tangiers (Morocco)
- Operator : Amendis
- Operations started in 2002 (for 25 years)
- Realization of 37,000 “social” connections between 2002 and 2014 targeting poor households
Implementation of a cross-subsidies system allowing some customers to pay a metric charge lower than the price paid by Amendis to the bulk provider
- Extension of the water network by 70% since 2003 and improvement of the connection rate from 73% in 2003 to 95% in 2014
- Increase of the number of customer by 119% (from 111,000 to 247,000 in eleven years)
• AVAILABILITY / SUFFICIENCY

Operators should provide a sufficient quantity of safe water available for domestic and personal use, and a sufficient number of available sanitation facilities. They can use different processes (re-use, desalination etc.) to reach this goal. Safe water should also be available every day. All efforts to improve the regularity of supply contribute to satisfying the availability criterion.

| Example: improved water network efficiency and continuous supply in Algiers (Algeria) | - Operator: Société des Eaux et de l’Assainissement d’Alger (SEEAL) and Suez Environnement through a PPP  
- Operations started in 2006 (for 5 years), and the contract was renewed in 2011 for another 5 years  
- Repair of 220,000 leaks on the water distribution network, renewal of 380km of network mains and 50,000 communication pipes, installation of 540km of communication pipes  
- Supply of drinking water 24h/day and 7 days/week in all sectors since April 2010 |

• QUALITY / SAFETY

The potability of water is the primary target for all operators. They have to provide water that does not put the health of the populations at risk (there are multiple examples in Apalit (Philippines), Saltillo (Mexico) and Petropolis (Brazil)).

| Example: water quality improvement action plan in Shanghai Pudong (China) | - Operator: Shanghai Pudong Water Corporation Limited (Pudong Veolia) (Sino-French Joint-Venture)  
- Operations started in 2002  
- Enhanced decision process with the integration of water quality information from various sources (central laboratory, self-control plan, mobile diagnosis truck)  
- Measurable improvements (e.g. average turbidity in the network reduced from 0,41NTU (2002) to 0,15NTU (2013) / manganese rate of non-compliance improved from 61% (2002) to 10% (2013)) |

• ACCEPTABILITY

Beyond the sole safety requirements, operators should provide healthy water by complying with mandatory standards of quality and acceptability (colour, odour, taste). Such projects have been conducted in Senegal, in Gdansk (Poland) and in Rostock (Germany).

| Example: improvement of taste and odour in Pennsylvania (USA) | - Operator: Aqua Pennsylvania  
- Series of upgrades of the Water Treatment Plan  
- Installation of an ultraviolet light/hydrogen peroxide treatment system, which removes up to 90% of taste and odour causing compounds without generation additional waste sludge  
- Possibility for the system to be turned on and off to treat issues as they occur. |
To attain the above-mentioned objectives, a prerequisite is to ensure appropriate governance through continuous stakeholder’s engagement. A step in the right direction consists in promoting strategic planning at city level and setting up platforms to promote stakeholders’ participation.

| Example: multi-stakeholder platform to support the development of projects in Mumbai (India) | Operator: Suez |
| | First meeting of the platform in October 2014. |
| | Inclusion by the operator in the offer to the city of Mumbai of a local diagnosis and a mapping of stakeholders; |
| | Set up of a multi-stakeholder platform (Suez, the City of Mumbai, experts and representatives of civil society), to support the development of pilot projects for improving access to water in the slums. |

It has to be underlined that while the definition of the Right to Water (RTW) is now quite complete, common understanding on the Right to Sanitation (RTS) is still work in progress. Delivering sanitation service is key to guarantee public health and protect the environment, but the implementation of the right to sanitation is facing major issues. 1.1 billion people have no access to any sanitation facility and must practice open defecation, responsible for child mortality. Access to safe toilets is essential but not sufficient. AquaFed promotes an integrated wastewater management based on collection, treatment, monitoring and re-use of the wastewater.

| Example: extension of wastewater networks and connections in Campo Grande (Brazil) | Operators: Aguas de Guariroba, AEGEA Saneamento group |
| | Operations started in 2000 (for 30 years, extendable for 30 years) |
| | Objective to reach a 100% wastewater collection and treatment for the city by 2025 from 23% in 2000 (by 2013, implementation of 839km of wastewater collection networks, 67,000 home connections and two new treatment stations) |
| | Reduction of 34% of cases of illnesses connected to a lack of basic sanitation at the city’s health units |

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11 AquaFed site. 2010, UN statistics
About AquaFed

The International Federation of Private Water Operators is a unique global knowledge hub. Founded in 2005 as a non-profit organisation, it has over 400 members in more than 40 countries. AquaFed links private water and wastewater operators with multilateral organisations and the international water sector. Its goal is to find solutions to the world’s water challenges as part of a broader sustainability agenda.

AquaFed connects international organisations and public authorities to practitioners to ensure that practical expertise and best practices supported by technology transfer, training, research and innovation deliver sustainable solutions.