

Women and Corporations: Rights and Obligations under the Human Right to Water

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The private business sector is a substantial user of water and a major contributor to water pollution. Different industries and entities use different amounts of waters for production or operations but collectively are estimated to account for two thirds of all water consumption. High consumptions and poor waste water management by corporations leads to over depletion and pollution of water resources, it also leads to ecological degradation. Economic interests by corporations especially pursuit of profits as a primary consideration has greatly contributed to poor water management and water pollution. Yet water is life! As it is necessary for biological survival, growth and flourishing. Water is indispensable for establishing communities and leading a communal life worthy of human dignity and human well-being. Regulating corporations to minimize the adverse impact of their activities on society has been an ongoing project in the business and human rights field. However there have been challenges or inadequacies towards obligating corporations to comply with human rights norms while doing business. For instance, the Guiding Principles on Business and Human Rights, Implementing the United Nations 'Protect, Respect and Remedy' Framework' imposes responsibility and not duty on corporations not to do harm. This study will examine from a human rights-based approach, regulation and the role of businesses in water management for equitable access to safe water for women and other vulnerable groups. Access to clean and safe water is a human right. This is recognised in international human rights instruments and in national constitutions. Women are the primary collectors and users of water at the domestic level. They are guaranteed adequate quality of water; sufficient and continuous, that is accessible including in terms of physical, economical, material information and on a non-discriminatory basis. Corporations must have human right obligations and be held liable for violations as recognised by African Commission on Human and Peoples' Rights. This paper will focus on the human right to water obligations for corporations and how to enforce them to realise the right to water for women.

1. Introduction

Access to water is a human right. This is recognised in global and regional human rights instruments and in national constitutions. The incremental evolution of an independent human right to water especially its legal foundations under United Nations (UN) human rights system partly was a response to two concerns. Firstly, in the 1970s and 80s it was a response to growing recognition that water was not infinite but a scarce resource that requires prioritising protection in terms of quantity and quality for human basic needs when developing and using water resources.¹ While the UN was trying to secure acceptance for a human right to water during the 1990s, the idea that water might be a profitable commodity

¹ See UN *Report on the United Nations Conference on Water, Mar del Plata Water Conference*, (Mar del Plata Water Conference Report,) 14-25 March 1977, E/Conf.70/29; UNGA *Report of the UN Conference on Environment and Development, Rio de Janeiro*, 3-14 June 1992, A/CONF.151/26/Rev.1 (Vol 1), Annex II, Agenda 21, Ch 18 para 18.47.

also gained prominence. The economic dimensions of water introduced market mechanisms, such as full cost recovery, to finance and distribute water services as well as conserve water as a resource.² During this period, the World Bank compelled developing countries to adopt policies that would ensure recovering of costs from users and thus attracting private sector investment in water.³ The emphasis was to move away from strong centralised state ‘government’, to more decentralised and democratic ‘governance’ with an emphasis on markets and market power allowing free market mechanisms to foster economic development.⁴ It is argued that through pricing, the free markets increase efficiency while state regulation and subsidies reduce efficiency by distorting this process.⁵ Neoliberalism pursues efficiency and productivity in the use of natural resources, such as land and water and social services, while treating non-profitable equity concerns as subsidiary.⁶ Neoliberalism is strongly associated with privatisation of public services and the State’s withdrawal of subsidies and involvement in the provision of social goods.⁷ With regards to water, markets and efficiency considerations skew allocation in favour of those with the means to pay, thus trading off equity against efficiency goals.⁸ It is this equity-efficiency trade off in neoliberal approaches that exclude attempts to improve distribution of wealth or take into account those unable to pay for services that gave rise to the second concern. Calls for an inherent human right came as a reaction to lack of access to water for large proportions of the populations due to privatisation of water services.⁹ The plea for the recognition of the human right to water became a mobilising tool by civil societies and a legal tool to reverse policies where there was a market value to water and imposition of full cost recovery to improve services and access.¹⁰ For instance in Bolivia human right to water calls were made during local ‘water

² See for instance The Dublin Statement on Water and Sustainable Development (Dublin Statement), International Conference on Water and the Environment, 26-31 January, 1992 Dublin, Ireland. Principle 4 had stated that water is an economic good and should be managed in this way to achieve ‘efficient and equitable use’ and conservation and protection of water resources

³ See Bayliss K ‘Financing water in Africa’ (2013) 182 *SOAS Department of Economics Working Paper Series* 1, 3.

⁴ Munck R ‘Neoliberalism and politics, and the politics of neoliberalism’ in Saad-Filho A & Johnston D (eds) *Neoliberalism: A Critical Reader* (2005) 60, 61 – 63. See also Friedman M *Capitalism and Freedom* (1962) 11 arguing that the State’s role must be confined to fostering competitive markets, regulation and enforcement of law and order to preserve and protect freedom.

⁵ See Baer, M *Stemming the tide: human to water and water policy in neoliberal world* (Oxford University Press, 2017) 5

⁶ See generally Shiva V *Water Wars* (2002); Kohl BH & Farthing LC *Impasse in Bolivia Neoliberal Hegemony and Popular Resistance*.(2006); Lobina, E & Hall, D *Water Privatization and Restructuring in Latin America* (2007). See also Williamson J ‘Democracy and the “Washington Consensus”’ (1993) *World Development* 1329-1336.

⁷ Harvey D *Brief History of Neoliberalism* (2005) generally; Teubner G ‘After privatisation? The many autonomies of private law’ (1998) 51 *Current Legal Problems* 393, 393; McDonald DA & Ruiters G ‘Theorising water privatisation in Southern Africa’ in McDonald DA & Ruiters G (eds) *The Age of Commodity: Water Privatisation in southern Africa* (2005) 13 -42, Bakker K ‘Neoliberalizing nature? Market environmentalism in water supply in England and Wales’ (2005) 95:3 *Annals of the Association of American Geographers* 542,543; Chirwa DM ‘Privatisation of water in Southern Africa: a human rights perspective’ (2004) 4 *African Human Rights Law Journal* 218, 221.

⁸ Roa-García, M.C. ‘Equity, efficiency and sustainability in water allocation in the Andes: Trade-offs in a full world’ (2014) 7:2 *Water Alternatives* 298, 299.

⁹ Baer M (2017)2

¹⁰ See generally Barlow M (2013); Bluemel, EB (2004)

wars' (the Cochabamba Water Wars) against privatisation of water services and the coming in of a multinational water consortium that caused the price for water to skyrocket leading to many poor people losing access to water.¹¹ The human right to water proposed water as a public good and called on government to reconsider privatisation of water services where exorbitant tariffs were imposed.¹²

The role of corporations in ensuring social and environmentally sustainable water services, use and management is still recognised. For instance, the Sustainable Development Goals (SDGs) emphasise the role of business and public and private partnerships to facilitate sustainable development and realise selected development goals including on water.¹³ The world is faced with unsolved social, environmental and economic water crisis with up to 30 per cent of the population without access to safely managed drinking water in 2021.¹⁴ Regulating corporations according to Deva, to minimize the adverse impact of their activities on society has been an ongoing project in the business and human rights (BHR) field.¹⁵ Deva writes there have been challenges or inadequacies towards obligating corporations to comply with human rights norms while doing business.¹⁶ This study will look at how the human right to water for women regulates the role of businesses and their impact on women. The paper is organised into four sections. After the introduction, the next section will elaborate on what the human right to water entails for women; how it contributes to gender equality in society and realising other human rights for women. This will be followed with a section on the role and norms established for businesses to promote this right for women. The last part will conclude and make recommendations.

2. Women's human right to water: norms and standards

2.1 Water is life!

The significance of water for human beings across the world can be summarised in the phrase 'water is life'. This axiomatic phrase is ordinarily interpreted to mean that water is necessary for biological survival, growth and flourishing.¹⁷ Indeed it is. Water is a critical resource for

¹¹ Baer M (2017) 2,7

¹² See Meier SM and others 'Implementation an Evolving Human Right Through Water and Sanitation Policy' (2012) 00 *Water Policy* 5; Vietz M 'Water Struggles in Argentina: International Policies, NGOs, and Civil Society in the Pursuit of Water Rights'(2013) Undergraduate thesis, University of Pittsburgh.

¹³ United Nations (2020) The Sustainable Development Goals Report 2020. Available from: <https://unstats.un.org/sdgs/report/2020/The-Sustainable-Development-GoalsReport-2020.pdf> [Accessed on 2 November 2021].

¹⁴ Ritchie H and Roser M *Clean Water* (2021) Available at <https://ourworldindata.org/water-access#access-to-safe-drinking-water>

¹⁵ Deva S 'Business and Human Rights: Alternative Approaches to Transnational Regulation' (2021) *Annual Review of Law and Social Science* 140

¹⁶ Deva S (2021) 140

¹⁷ *Mazibuko v City of Johannesburg* [2009] ZACC 28; 2010 (3) BCLR 239 (CC); 2010 (4) SA 1 (CC) para 1: "Cultures in all parts of the world acknowledge the importance of water. Water is life. Without it, nothing organic grows. Human beings need water to drink, to cook, to wash and to grow our food. Without it, we will die" (per O'Regan J).

human survival, health, growth and development. First of all, drinking water is an important contributing element to nearly every bodily function, including waste disposal and the healthy functioning of the immune system.¹⁸ Without water, the human body cannot survive for more than a few days.¹⁹ Secondly, water is required for proper human health and hygiene to prevent and eradicate diseases, like diarrhoea, that take a heavy toll on human lives, particularly on children.²⁰ Access to water, sanitation and hygiene are recognised as preventative measures which are crucial in improving public health.²¹ Thirdly, water is essential for food production in order to prevent starvation and malnutrition.²² Water is also important for economic activities such as agriculture, industry, energy and transport. It thus contributes to social well-being, growth, sustainable development and poverty reduction.²³ This suggests that the phrase ‘water is life’ also has a broader meaning which is not ordinarily highlighted. Water is indispensable for establishing communities and leading a communal life worthy of human dignity and human well-being.

2.2 Women’s burden and guaranteed entitlement

Women play a central role in water provision and management at household level. In 2016 a study recorded that at least 17 million women and girls in Africa collect water every day and across all 24 countries examined.²⁴ They are also users in agriculture sectors both irrigated and rain-fed. Water poverty or shortage disproportionately affects women who are expected to ensure that their household has access to water, and to perform many of the water-intensive household activities.²⁵ ‘Water poverty’ or ‘water shortage’ signifies insufficient supply of

¹⁸ Curry E ‘Water scarcity and the recognition of the human right to safe freshwater’ (2010) 9 *North Western University Journal of International Human Rights* 103. The human body is composed of more than 60 percent water. The blood is 92 percent water, while the brain and muscles are 75 per cent water, and bones consists approximately 22 per cent water. Water Facts available at <http://www.waterinfo.org/resources/water-facts> (accessed 9 November 2011).

¹⁹ World Health Organisation (WHO) ‘Right to water’(2003) available at http://www.who.int/water_sanitation_health/en/righttowater.pdf (accessed on 12 November 2011).

²⁰ Pruss-Ustun A, Bartram J, Clasen T et al ‘Burden of disease from inadequate water, sanitation and hygiene in low- and middle-income settings: a retrospective analysis of data from 145 countries’ (2014) 19:8 *Tropical Medicine and International Health* 894 – 905 stating that inadequate drinking water, sanitation and hygiene cause diarrheal which approximately 2,300 people per day. It is the second leading cause of child death in the world. See WHO ‘Diarrhoea : why children are still dying and what can be done’ (2009) available on http://www.unicef.org/health/files/Final_Diarrhoea_Report_October_2009_final.pdf (accessed on 2 March 2011) see also WHO Water supply, sanitation and hygiene development available at http://www.who.int/water_sanitation_health/hygiene/en/ (accessed 8 November 2011).

²¹ See Bartram J & Cairncross S ‘Hygiene, Sanitation and Water: Forgotten Foundations of Health’ (2010) 7:11 *PLoS Med* available at <http://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1000367> (accessed on 5 April 2014).

²² UN-Water ‘Water and Food’ (2014) available at <http://www.unwater.org/topics/water-and-food/en/> (accessed 16 December 2014).

²³ See generally United Nations Development Programme (UNDP) *Human Development Report 2006 Beyond Scarcity: Power, poverty and the global water crisis* (2006).

²⁴ Lin Taylor ;Over 17 million women and girls collect water in Africa, at risk of rape and disease’ (2016) Thomson Reuters Foundation. Available at <https://news.trust.org/item/20160601144036-1v616/?source=spotnewsfeed>

²⁵ J. Fisher, S. Cavill, B. Reed Mainstreaming gender in the WASH sector: Dilution or distillation? (2017) 25 (2) *Gender and Development* 185-204

and access to clean freshwater in relation to one's needs.²⁶ Schlamovitz and Becker detail the impact on water shortage as including disruption of lives and livelihoods, health challenges including diarrhoea due to consumption of poor quality water and social exclusion and embarrassment due to poor hygiene.²⁷ This disproportionately affects women as they may have to walk as much as seven or eight hours a day to collect water.²⁸ During these treks, women are exposed to a variety of dangers, including "physical and sexual assault, attacks from animals, and physical problems due to heavy water weight".²⁹ The time wasted in water collection also negatively affect women's employment, as women are spending too much time in domestic labour tasks, and too little time in other productive tasks, including market-based labour activities.³⁰ Besides the unrealized economic productivity they also disproportionately bear the health and social burdens including greater exposure to water-related disease and gender inequality.³¹ Dickin and others have pointed out that there is need to focus on broader human wellbeing such as gender and social equality as regards to access to water.³² The relationship between water and women's disproportionate burden of water collection and impact of water shortage mirrors gender inequalities in society and is a manifestation of the global water crisis caused by unequal relations of power, poverty and inequality.³³

Gender inequality is experienced by both men and women; however it is women who bear the brunt of this scourge in society. Social structures create and sustain gender inequality through gendered expectations, norms and values which prescribe how individuals and groups negotiate their daily interactions.³⁴ According to Young, women are oppressed and dominated in society and this is manifested in exploitation, marginalisation, powerlessness,

²⁶ Schlamovitz JL & Becker P 'Differentiated vulnerabilities and capacities for adaptation to water shortage in Gaborone, Botswana, (2021) 37:2 *International Journal of Water Resources Development*, 289

²⁷ Schlamovitz & Becker (2021) 287-89

²⁸ Sedai, A K Who benefits from piped water in the house? Empirical evidence from a gendered analysis in India (2021) https://www.researchgate.net/profile/Ashish-Sedai-2/publication/351287107_Who_benefits_from_piped_water_in_the_house_Empirical_evidence_from_a_gendered_analysis_in_India/links/60905a28299bf1ad8d76cff5/Who-benefits-from-piped-water-in-the-house-Empirical-evidence-from-a-gendered-analysis-in-India.pdf

²⁹ Gündüz, Z.Y., 'Water- on women's burdens, humans' rights, and companies' profits' (2011) 62(8) *Monthly Review*, 45.

³⁰ See UNICEF et al. Collecting water is often a colossal waste of time for women and girls. Press Release (2016) Available at <https://www.unicef.org.>; Koolwal, G. and Van de Walle, D. Access to water, women's work, and child outcomes. (2013). 61(2) *Economic Development and Cultural Change*, 369–405.

³¹ Gupta, P., & Obani, J. 'Human security and access to water, sanitation, and hygiene: exploring the drivers and nexus' in Pahl-Wostl, C., J. Gupta, & A. Bhaduri (Eds.), *Handbook on Water Security* (2016 Cheltenham, UK: Edward Elgar, 2016) 201–214.

³² See Dickin, S, et al 'Empowerment in water, sanitation and hygiene index' (2021) 137 *World development* 105153-105158

³³ UNDP (2006) 7.

³⁴ Pieterse M., 'May Real Men Cry in Court? Masculinity, Equality and the South African Constitutional Court', (2014) 40 (2) *Journal of Southern African Studies* 361. See also Molestane R. & Ntombela, S., 'Gender and Rurality in southern African contexts: An introduction' (2010) 24,(84), *Agenda*, 4

cultural imperialism and violence.³⁵ She states that this places them at the lower end in the social hierarchy. Similarly Mackinnon states that it is the unequal possession of power between the genders that is the fundamental dynamic of inequality because it creates social hierarchies.³⁶ Fraser identifies economic arrangements as a source of inequality. She argues that economic structures institutionalises deprivation, exploitation and gross disparities in wealth resulting in class differentiation as some being denied resources necessary to interact with others as peers.³⁷ Fredman argues that there are many ways unequal power relations are patterned and the multi-faceted ways in which inequality manifests.³⁸ She does not identify hierarchy of status and privilege as the single identifying principle of inequality as criticised by Mackinnon.³⁹ Although she fails to emphasise this important basis for inequality which is what ultimately explains how unequal power results in inequality, she does demonstrate how the social hierarchies are created and complexly woven in the relations of power at different levels, between and among groups. For instance, she identifies that women are disadvantaged both in terms of material and social aspects as a result of subordinate position in family and reproduction, paid workforce and in other relations of power. She has recognised four dimensions to substantive equality which buttresses one another as nuanced tools to the complex ways in which inequality of power occurs and must be addressed.⁴⁰ The dimensions are redressing disadvantage, enhancing participation, and achieving structural change, including accommodating difference.⁴¹ The framework must be understood as interactive and interconnected to further equality, which although always based on hierarchy of status and privilege manifests itself in different forms and these must be identified and addressed to ensure anti-social hierarchies.

Water infrastructure and access to water especially within domestic settings have many numerous benefits for women including reducing the time spent on collecting water and associated risks, more opportunities for economic productivity.⁴² However to ensure water goes beyond a limited focus on ‘things’ (i.e. safe water of a certain quantity within a specified distance), the focus on water must go beyond the human mode of ‘having’ into ‘being’ i.e. being a full member of society.⁴³ Achieving gender and other social equality outcomes must be core to providing and managing water at all levels. This would ensure that the iconic slogan ‘water is life’ is understood both in terms of a biological and social sense. The social sense entails participatory living of citizens as equals in a community with others. The

³⁵ I.M. Young *Justice and the Politics of Difference* (Princeton University Press, 1990) 43 -61

³⁶ C.A. Mackinnon, ‘Substantive Equality Revisited: A Rejoinder to Sandra Fredman’ (2017)

³⁷ N Fraser (2009)5, 27.

³⁸ S.Fredman, ‘Substantive Equality Revisited: A Rejoinder to Catharine MacKinnon’, (2016) 14 (3) *International Journal of Constitutional Law*, 747–751

³⁹ C.A. Mackinnon, Substantive Equality Revisited: A reply to Sandra Fredman’ *International Journal of Constitutional Law*, 14, 3, (2016), pp739–746

⁴⁰ S. Fredman, ‘Substantive Equality’, p749

⁴¹ S . Fredman, ‘Substantive Equality’, p749

⁴² WaterAid. (2017). Water, Sanitation and Hygiene: 10 reasons WASH is a pathway to gender equality and the empowerment of women and girls. Retrieved June 10, 2019, from <https://www.wateraid.org/ca/10-reasons-wash-is-a-pathway-to-gender-empowerment-and-the-empowerment-of-women-and-girls>; Sentlinger, K. (2019). Empowering Women Through Water. Retrieved June 10, 2019, from <https://thewaterproject.org/water-scarcity/water-womens-empowerment>

⁴³ See Fromm E *To have or to be?* (1976) for a discussion of these terms and the modes of human existence each encapsulates from a social-psychological perspective.

human right to water guarantees both access to water as a legal entitlement and a right to participate in water governance. This transforms the human right to water from a right aimed at meeting the biological requirements or survival interests of a person, to a right empowering people to become agents and to shape their own lives and the society they live in. I will look at this subsequently.

Women are guaranteed a human right to water in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)⁴⁴ Article 14(2) (h) specifically obliges state parties to ensure that rural women have the right:

to enjoy *adequate* living conditions, particularly in relation to housing, sanitation, electricity and *water supply*, transport and communication.

The CEDAW as a whole does not create new rights but rather aims to address or eliminate discrimination in areas already guaranteed by pre-existing human rights.⁴⁵ Further the focus on rural women was merely to highlight the rural and urban divide as a basis of disadvantage or discrimination and to seek to improve the situation of women living in these less developed areas.⁴⁶ Similarly, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Women's Protocol) provides for women's human right to water.⁴⁷ It requires that state parties take appropriate measures to 'provide women with access to clean drinking water.'⁴⁸

As primary collectors and users the human right to water guarantees women adequate quality of water; sufficient and continuous and that is accessible including in terms of physical, economical, material information and on a non-discriminatory basis.⁴⁹ States have the obligation to realise this right through the establishment of water service systems that guarantee equal opportunity for all to access water. The human right to water does not exclude reliance of businesses or market mechanisms in in the distribution of water or water management generally. Private corporations or businesses as already alluded have been recognised in the past decades as having a role to play in delivery of basic water services. There has also been increasing attention on the negative and positive impact in realising the human right to water and thus calls for increased accountability for human rights violations. Agovino and others after reviewing literature identified that ideological and financial

⁴⁴ Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Adopted 18 December 1979 and entered into force 3 September 1981. Art 14.

⁴⁵ Winkler IT The Human Right to Water: Significance, Legal Status and Implications for Water Allocation (2012) 60.

⁴⁶ Pruitt LR 'Deconstructing CEDAW's article 14: naming and explaining rural difference' (2010-2011) 17 *William and Mary Journal of Women and Law* 347, 351-352; Burrows N 'The 1979 Convention on the Elimination of All Forms of Discrimination Against Women' (1985) 32 *Netherlands International Law Review* 419, 446-48 447.

⁴⁷ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Women's Protocol) Adopted on 11 July 2003 and entered into force 25 November 2005.

⁴⁸ Women's Protocol art 15(a)

⁴⁹

considerations are key factors advanced for corporate involvement in water sector.⁵⁰ Corporations are considered by some to be instrumental to reduce the cost of services through higher competition, economies of scale, innovativeness and efficiency as compared to public services.⁵¹ They hold that the empirical literature on this is inconclusive as studies provide conflicting results which they consider as indicating that the corporations may not necessarily be successful. Cernic argues that corporations can contribute to realising the human right to water where they bear certain responsibilities or obligations derived from human right law at the national and international levels.⁵² Gregg opines that although private corporation or businesses are ordinarily oriented to maximizing profits and thus at variance with aspirations of the human rights especially equity, they can be advocates and promoters of human rights.⁵³ The human right to water emphasises equity as a goal at all times. Under the human right to water the state is the primary duty bearer but is allowed to employ private corporations or businesses in providing water as long as it prevents them or any other third parties from depriving people the enjoyment of their human right to water. The CESCR in its 2017 ‘State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities’(GC 24) emphasises that corporations must be subject to strict regulations.⁵⁴ In the context of water, the CESCR in GC 24 requires that the State imposes ‘public service obligation’ for universal coverage and continuity of service, affordability, quality that is not sacrificed for the sake of increasing profits, adequacy and user participation. According to the African Commission on Human and Peoples Rights (African Commission), states must create and maintain an atmosphere through effective interplay of laws and regulations so that individuals will be able to freely realise their rights and freedoms.⁵⁵ It is thus discharged when individuals, groups, corporations and other entities or agent acting with states’ authority are restrained from interfering with individual opportunity, ability to realise and enjoy the human right to water.⁵⁶ Such interference can be in the form of denying equal access to adequate water, polluting and inequitably extracting from water resources.⁵⁷ It has the duty to ensure that such private actors do not compromise

⁵⁰ Agovino M and others Corporate governance and sustainability in water utilities. The effects of decorporatisation in the city of Naples, Italy (2020) WILEY 876

⁵¹ Agovino M et al (2020) 876

⁵² Cernic LJ Corporate Obligations under the Human Right to Water (2010-2011) 39 Denv. J. Int'l L. & Pol'y 303

⁵³ Gregg B Human Rights Require Yet Contest National Sovereignty How a Human Rights Corporation Might Help https://www.researchgate.net/profile/Benjamin-Gregg/publication/351591067_Human_Rights_Require_Yet_Contest_National_Sovereignty_How_a_Human_Rights_Corporation_Might_Help/links/609edc73a6fdcccacb5505a7/Human-Rights-Require-Yet-Contest-National-Sovereignty-How-a-Human-Rights-Corporation-Might-Help.pdf

⁵⁴ UN Committee on Economic, Social and Cultural Rights (CESCR) General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, 10 August 2017, E/C.12/GC/24, (GC 24) para 21-22

⁵⁵ SERAC case para 46. See also The African Commission on Human and Peoples’ Rights, (African Commission) *Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and People’s Rights* (2011) p51-52 available at https://www.achpr.org/public/Document/file/English/achpr_instr_guide_draft_esc_rights_eng.pdf

⁵⁶ CESCR *General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant)*, 20 January 2003, E/C.12/2002/11 (GC 15) para 24.

⁵⁷ GC 15 para 23 For instance in *Permatty Grama Panchayat v state of Kerala*, 2004 (1) KLT 731 the High Court of Kerala established that the state must protect its water sources from over-extraction of ground water by regulating private individuals or companies use of the ground water.

equal, affordable, and physical access to sufficient, safe and acceptable water.⁵⁸ The African Commission's 'Guidelines on the Right to Water in Africa' (Water Guidelines) specifically requires that states only delegate water supply services to private entities where it can deliver the same level of water services under the human right to water.⁵⁹ Effective regulatory systems must be established through public participation of individuals or groups whose human right to water will be affected by the private sector participation.⁶⁰ Further such regulatory systems must include independent monitoring as well as penalties where it is not complied with.

The poor and marginalised must be specifically protected from exclusion of services even when they are unable to pay for services. One advantage of human rights is that it goes beyond averages to look at the groups that are suffering or are likely to suffer to ensure provision is made for them. It challenges the economic and social injustices by recognising the inherent dignity of every person without distinction. This is why any discrimination which has the intention or result of affecting or impairing the equal exercise of the human right to water is prohibited.⁶¹ Everyone must be ensured access to water, including vulnerable and marginalised groups without distinction or restrictions based on their status.⁶² This is the substantive content of the human right to water which concerns the goal of improving water services so that everyone has access to safe, sufficient and acceptable water to enable them to live a healthy and dignified life in community with other. There is another aspect component of this right namely the procedural component which is concerned with the designing and implementation process accompanying the right to have access to safe water for domestic purposes. The human right to water has established that the process within which the State crafts strategies, policies and laws to ensure the right standards and norms to meet the goal of universal access, must be undertaken in collaboration with people. There is a right to participate within the human right to water which entails opportunity and influence or as Fraser would put it legitimacy and efficacy.⁶³ Legitimacy or opportunity is concerned with who is participating. It particularly requires that poor and disadvantaged and marginalised groups be given an equal opportunity to take part and influence such processes. There must be capacity and quality in opportunity to participate to meet the standard of participation envisaged in the human right to water. Efficacy or influence is the power or political force in determining decisions. Where participation in water governance does not

⁵⁸ GC15 para 24. See also Williams M 'Privatisation and the human right to water: challenges for the new century' (2007) 28 *Michigan Journal of International Law* 467, 487 noting that the duty to protect contemplates that water services may be provided by private actors but also possible abuses and steps to correct or prevent such abuses. See also Murthy SL (2013) 119 stating that although the Committee on ESCR is critical of some of the elements of privatisation, it has not gone so far as declaring them incompatible with the human right to water.

⁵⁹ See also The African Commission *Guidelines on the Right to Water in Africa* (2019) 33-35 available at <https://www.achpr.org/public/Document/file/English/ENG-%20ACHPR%20Guidelines%20on%20the%20Right%20to%20Water%20in%20Africa.pdf>

⁶⁰ GC15 para 24 & 48.

⁶¹ See International Covenant on Economic Social and Cultural Rights (ICESCR) Adopted 16 December 1966 and entered into force 3 January 1976 art. 2 (2).

⁶² GC 15, paras. 12 (c)(iii), (13), (16); Sub-Commission Guidelines para 3.

⁶³ See Fraser N 'Transnationalising public sphere: on the legitimacy and efficacy of public opinion in a post-westphalian world' in Nash K *Transnationalizing the Public Sphere* (2014) 8- 37 for an elaboration on this.

guarantee power – or at least platforms to express or act in an empowered way should one value that or choose to do so – it violates the human right to water. The Committee Economic Social and Cultural Rights (CESCR) specifically advances a participatory right to water in line with the primacy of equity in the struggle to secure access to water. Participation is thus regarded as an empowerment right to challenge inequality. Further evidence for this can be seen in the requirement of participation in establishing a regulatory system for service providers to prevent them from ‘compromising equal and affordable access to sufficient and acceptable water’.⁶⁴

The process and outcome in provision and management of water must be based on equity to empower the marginalised and poor who find themselves on the peripheral advantage. Human rights and reliance of the law has the advantage of transforming claims for well-being into legal obligations, showing the urgency to such claims and strong resolve for universal application.⁶⁵ Where corporations are involved they must ensure the goals of human rights to water for women that include extending and guaranteeing access while also promoting sustainable consumption of water plus opportunity for voice and influence in the process.

3. Role and Regulation of Corporations in human right to water

The relationship of corporations with water or the human right to water may be based on whether the corporations are providers i.e. water utilities; users; or enablers through manufacture of relevant equipment.⁶⁶ We have already discussed briefly how corporations are envisaged as providers or distributors of water services and the concerns related to this role. These corporations may be state owned or private entities or a combination of both through public private partnerships. In *Mazibuko and Others v City of Johannesburg and Others*⁶⁷ five poor residents of Phiri in Soweto, one of the poorest black townships of Johannesburg sued the City of Johannesburg, Johannesburg Water (a company wholly owned by the City), and the national Minister for Water Affairs and Forestry. The applicants failed in challenging installing pre-paid meters to charge consumers for use of water more than the 6 kilolitre per household monthly free basic water allowance which was inadequate for the households in Soweto. Although the ultimate outcome is disappointing the case demonstrates how poor households are excluded both in terms of consultations and benefit to market-oriented strategies used to ensure delivery of water services. Four of the five applicants were women in the case, demonstrating how these are the most affected when water distribution and services implicate equity considerations.

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⁶⁵ See Tremblay H ‘A clash of paradigms in the water sector? Tensions and synergies between integrated water resources management and the human rights-based approach to development’ (2011) 51 *Natural Resources Journal* 307, 318 stating that there are five advantages that the HRBA brings to development namely: (a) reliance on legal mechanisms (b) State as primary duty bearer, (c) accountability (d) participation and (e) equity and non-discrimination.

⁶⁶ The Institute for Human Rights and Business, Draft *business, human rights and the right to water challenges, dilemmas and opportunities roundtable consultative report*, 2009, 9 available at

⁶⁷ https://www.joinforwater.ngo/sites/default/files/library_assets/W_MEN_E3_draft_business.pdf (CCT 39/09) [2009] ZACC 28; 2010 (3) BCLR 239 (CC) ; 2010 (4) SA 1 (CC) (8 October 2009)

Corporations are the world's largest water users or consumers. Different industries and entities use different amounts of waters for production or operations but collectively are estimated to account for two thirds of all water consumption.⁶⁸ Examples include commercial agriculture, mining, and beverages industries. High consumptions and poor waste water management by corporation's water usage, leads to over depletion and pollution of water resources, it also leads to ecological degradation. For instance, growing cotton used for clothing manufacturers led use water depletion due to irrigation in the Aral Sea region, shrinking the sea to a quarter of its former size.⁶⁹ Further damage was caused by the chemical laden dust and salt from the exposed lakeshore that was blown by wind. Coca-Cola company was forced to close its plant in India due to communities' pressure for the over extraction of ground water that adversely impacted their livelihoods. sources. Water privatization and siphoning are two major issues when it comes to water shortages. The private business sector is a substantial user of water and a major contributor to water pollution.⁷⁰ Hall and Lobina argue that such corporations have no economic incentive to invest in sustainable water management to prevent the adverse impacts caused by their operations.⁷¹ Another role of corporations is as enablers of access to water through manufacturing equipment

The growing recognition of the role of corporations in implicating human right to water has led to development of specific guiding principles on how corporations must conduct themselves in relation to human rights. The Guiding Principles on Business and Human Rights, Implementing the United Nations 'Protect, Respect and Remedy' Framework' (Business Principles)⁷² is among the earlier documents that sought to provide 'a contemporary interpretation' of existing legal obligations related corporations.⁷³ These principles reflect 'the present state of international law'⁷⁴ as they simply clarify the normative content of treaties and other sources of international law.⁷⁵ Carmona points out that 'this means that even when principles are not binding per se, they often carry an authority stemming from the international law from which the provisions are drawn'.⁷⁶ The guiding principles are the first framework for corporate human rights responsibility initiative to be endorsed by the UN ⁷⁷ Deva states that they are made with the understanding of shifting from government to governance where different stakeholders can collectively help the state

⁶⁸ *Corporate Water Use*. Available at [Corporate Water Use \(conservationgateway.org\)](http://www.conservationgateway.org/ConservationPractices/Freshwater/CorporateWaterUse/Pages/corporate-water-use.aspx)

⁶⁹ corporate Water Use
<https://www.conservationgateway.org/ConservationPractices/Freshwater/CorporateWaterUse/Pages/corporate-water-use.aspx>

⁷⁰ Linhan Zhang Corporate water management systems and incentives to self-discipline 10(3) Sustainability Accounting, Management and Policy Journal

⁷¹ Hall D and Lobina E, Conflicts, companies, human rights, and water - A critical review of local corporate practices and global corporate initiatives. A report for Public Services International (PSI) for the 6th World Water Forum at Marseille, March 2012

⁷² Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect And Remedy' Framework. A/HRC/17/31, 21 March 2011.

⁷³ See Carmona MS 'Human rights guiding principles: a forward-looking retrospective'

⁷⁴ Guiding Principles (2011)

⁷⁵ Carmona MS 27

⁷⁶ Carmona MS 27

⁷⁷ Surya Deva, "Guiding Principles on Business and Human Rights: Implications for Companies European Company Law, Vol. 9, No. 2, pp. 101-109, 2012

manage and resolve pressing societal challenges.⁷⁸ The guiding principles comprises three pillars on states and businesses. The first pillar is state's duty to protect human rights abuses by third parties. The second is the corporate or business responsibility to respect human rights and the final pillar is access to remedy for victims of business-related abuses. The corporate responsibility to respect human rights means that 'business enterprises should act with due diligence to avoid infringing on the rights of others and to address adverse impacts with which they are involved'.⁷⁹ Corporations must also consider and engage meaningfully with those who might be directly affected by their actions in order to ensure that they are not infringing on the enjoyment of the right to water. Companies need to ensure that they consult not just community leaders who tend to be men but also women⁸⁰.

The corporate responsibility to respect human rights is based on several principles. The foundational principles require corporations to refrain from violating human rights through their operations.⁸¹ Corporation's social responsibility is no longer only to maximize its profits but also to ensure that their activities and impacts do not infringe on human rights. As regards corporations in the water sector, this means they should not carry out arbitrary disconnections from water services.⁸² Corporation should not impose high tariffs on their water services in pursuit of profits disproportionately excluding the poor. As already discussed, disconnection from available water services disproportionately affects women. Poor women are forced to use contaminated water when they cannot afford available water services. This is a violation of the human right to water. Another example of corporation's impact on human right to water is through pollution of drinking water due to chemical effluents from production processes. As discussed already, women as primary collectors and users are guaranteed access to adequate quality of water that is sufficient and continuous in terms of physical, economical, material information and on a non-discriminatory basis. Business enterprises are required to pay particular attention to women and other vulnerable groups to avoid infringing their rights. Corporations must respect the human right to water by not only avoiding violations emanating from or linked to their operations or services but by also undertaking adequate measures towards prevention, mitigation and remediation.⁸³

There are three operating principles namely policy comment, human rights due diligence and remediation. Corporations must have publicly available policies and processes to conduct a human right due diligence for prevention, mitigation and, remediation⁸⁴ Committing to respect the human right to water in the corporations' core operations is a starting point hence the need for the policies. They may also define what action and processes will be undertaken

⁷⁸ Deva s *Business and Human Rights: Alternative Approaches to Transnational Regulation* (2021) 17 *Annual Review of Law and Social Science* 142

⁷⁹ Para 6

⁸⁰ UN Guiding Principle 18 notes that this engagement should be undertaken "as appropriate to the size of the business enterprise and the nature and context of its operations".

⁸¹ UN Guiding Principle 11

⁸² The CEO Water Mandate, Guidance for companies on respecting the human rights to water and sanitation: bringing a human rights lens to corporate water stewardship, January 2015

⁸³ See UN Guiding Principles 11 and 13

⁸⁴ UN Guiding Principle 15 and 16

to respect the human right to water in practice.⁸⁵ The CEO Water Mandate, a global commitment platform for corporate water stewardship provides an opportunity for companies to publicly commit to water stewardship which includes recognising the human right to water.⁸⁶ Water stewardship is defined as the use of water in ways that are socially equitable, environmentally sustainable, and economically beneficial.⁸⁷ This special initiative by the UN Secretary General and UN Global Compact is an example of growing trend to encourage companies and create a movement towards realising the human right to water.⁸⁸ Beyond the commitment, the corporation must define what action and processes will be undertaken to respect the human right to water in practice.⁸⁹

Beyond the policy and action, the corporations must assess impacts of their operations on the human right of water through human rights due diligence. According to guiding principle 17, human rights due diligence process involves several things such as assessing actual and potential human rights impacts from corporations' activities or linked to its operations, products or services. Corporations will require human rights expertise and meaningful consultations with potential affected groups such as women to identify and assess any actual or potential adverse human rights impact.⁹⁰ The focus must be the risk to people posed by the company's operations and vulnerable or marginalised groups like women must be given special consideration. Women's participation in this process is essential and the human right to water requirements for participation and the substantive content must be relied on to assess impacts. Participation in the process must ensure equal opportunity for women to take part and influence such processes. Identifying risk or actual adverse impact on the human right to water must consider how operations are affecting availability, accessibility, acceptability, quality and safety, and affordability of water.⁹¹

The process of human rights due diligence must also involve integrating and acting upon the findings.⁹² Furthermore the process involves tracking the identified responses for effective implementation and accountability by an enterprise through formal reporting of how impacts are addressed.⁹³ Once corporations became aware that they have caused or contributed to adverse impacts to human rights, they must provide for or cooperate to remedy the violation.⁹⁴ The responsibility to respect human rights requires corporations to have grievance mechanisms as one effective way of enabling remediation. The provided remedy

⁸⁵ United Nations *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide* (2012) 26-27 Available at https://www.ohchr.org/documents/publications/hr.pub.12.2_en.pdf (An Interpretive Guide)

⁸⁶ UN Global Compact 'CEO Water Mandate' available at: <https://ceowatermandate.org/>

⁸⁷ UN Global Compact *The CEO Water Mandate Guidance for Companies on Respecting the Human Rights to Water and Sanitation: Bringing a Human Rights Lens to Corporate Water Stewardship* (2015)

⁸⁸ Although the CEO water mandate does not refer to the human right to water in the approach it takes, the commitments would contribute to realising the human right to water.

⁸⁹ United Nations *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide* (2012) 26-27 Available at <https://doi.org/10.18356/65932e19-en>

⁹⁰ UN Guiding Principle 18

⁹¹ C 47

⁹² See UN Guiding Principle 17, 19 and 20

⁹³ UN Guiding Principle 17 and 21

⁹⁴ UN Guiding Principle 22

must counteract or make good any human rights violations that have occurred.⁹⁵ The procedures for the provision of remedy should be impartial, protected from corruption and free from political or other attempts to influence the outcome.⁹⁶ The human right to water as discussed above would be promoted if corporations adhered to the requirements as identified in the UN Guiding Principles. Corporations would not only have to ensure access, quality, and affordability but also transparency in its efforts, accountability and participation of women.

Responsibility not duty is imposed not to do harm. The GC 24 has not helped to establish corporate duty to human rights although it makes mention that the corporate sector needs to discharge ‘their human rights obligations and assuming their responsibilities’.⁹⁷ The obligations discussed in GC 24 are all directed at the state to ensure that corporations do not violate rights guaranteed in the International Covenant Economic Social Cultural Rights. Responsibility is relied on as a voluntary moral or ethical obligation and based on an understanding that human rights are not legally binding norms on corporations (but states) and there are no mechanisms for holding the corporations accountable.⁹⁸ Chirwa and Amodu criticise the guiding principles creating false dichotomies, one between responsibility and duty, and the other between primary and secondary duties/responsibilities of states and corporations.⁹⁹ They argue that corporations can have legal obligations to protect human rights including economic social and cultural rights and not merely soft-law responsibilities. They further argue that just like states can be held responsible for failing to perform in relation to human rights duties, corporations too can be held accountable.¹⁰⁰ Perhaps there is hope with the drafting of the legally binding instrument to regulate activities of transnational corporations and other business enterprises being led by the Intergovernmental Working Group established by the UN Human Rights Council in 2014.¹⁰¹

The UN Guiding Principles have failed to create new international legal obligations for corporations that can be enforced and have no a grievance or complaints mechanism that victims of business-related human rights abuses can access for remedy.¹⁰² These weaknesses

⁹⁵ UN Guiding Principle 25 commentary

⁹⁶ UN Guiding Principle 25 commentary

⁹⁷ GC 24 para 5

⁹⁸ Chirwa DM & Amodu N Economic, Social and Cultural Rights, Sustainable Development Goals, and Duties of Corporations: Rejecting the False Dichotomies (2020) https://eprints.soas.ac.uk/35423/1/27112020_ESC%20Rights%20SDGs%20and%20Corporations%20%28NA%29.pdf

⁹⁹ Chirwa & Amodu (2020) 14

¹⁰⁰ Chirwa DM & Amodu N (2020) 14

¹⁰¹ See UN Human Rights Council, Resolution on Elaboration of an International Legally Binding Instrument on Transnational Corporations and Other Business Enterprises with respect to Human Rights (Bolivia (Plurinational State of), Cuba, Ecuador, South Africa, Venezuela (Bolivarian Republic of): draft resolution, A/HRC/26/L.22/Rev.1, 25 June 2014. The third revised version of the Draft Business and Human Rights Treaty (Draft Treaty) provides as one of its purpose in article 2 as ‘To clarify and ensure respect and fulfillment of the human rights obligations of business enterprises.’ Perhaps the final version will explicitly provide a framework for legally binding duties for and to hold corporations accountable to put rest to the doubt

¹⁰² van Huijste M and others ‘How to use the UN Guiding Principles on Business and Human Rights in company research and advocacy: A guide for civil society organisation ‘(2012)

have been pointed out by many civil society organisations together with their lack of reference to full body of human rights laws and standards that are relevant providing loopholes for corporations to escape the responsibilities laid down in these documents.¹⁰³ The UN Guiding Principles do offer an understanding and scope of corporations responsibility towards respecting the human right to water and other human rights including the responsibility to address violations of human rights. They remain the most authoritative and globally recognised framework for business and human right offering a starting point on guiding respect for human rights by corporations.

The African Commission unlike the global body has been bold to establish that that ‘corporations, particularly multinational ones, have obligations towards right holders.’¹⁰⁴ The legal basis is article 27 of the African Charter which provides for duties of individuals including the obligation to exercise rights ‘with due regard to the rights of others’¹⁰⁵ The African Commission has argued these individual duties form a strong moral and legal basis for attributing these obligations to corporations. The African Commission is also compelled to establish obligations for corporations to ensure that there is no vacuum created for such entities operate without observing human rights.¹⁰⁶ Further, it has been stated that besides article 27, articles 28 and 29 should be read also to impose duties on the companies because of the resources at their disposal and extent of impact on communities that rely on such entities especially extractive industries.¹⁰⁷ It should be pointed out the Africa Commission has elaborated on obligations of companies mainly in the context of extractive industries in the ‘State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment’ (Guidelines and Principles).¹⁰⁸ Besides water being a natural resource that can be extracted, the African Commission has subsequent to their development applied them to corporations with activities and/or impact on the human right to water.¹⁰⁹

Companies have both negative and positive obligations. The negative obligations are based on the principle of do no harm. As discussed under the UN Guiding Principles, corporations must avoid causing or contributing to adverse human rights impact. The African Commission has specifically stated that in the context of the human right to water, this means

¹⁰³ <https://www.somo.nl/wp-content/uploads/2012/11/English-version.pdf> 12

¹⁰⁴ van Huijste (2012) 12

¹⁰⁴ African Commission *State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment* (Guidelines and Principles) (2018) 37 Available at

¹⁰⁵ <https://www.achpr.org/public/Document/file/English/Articles%201%20&%2024%20State%20Reporting%20Guidelines.pdf>

¹⁰⁵ ARTICLE 27

1. Every individual shall have duties towards his family and society, the State and other legally recognised communities and the international community.

2. The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.

¹⁰⁶ Guidelines and Principles (2018) para 56

¹⁰⁷ Guidelines and Principles (2018) 43

¹⁰⁸ Guidelines and Principles (2018) 37-40

¹⁰⁹ Water Guidelines (2019) para 33

that companies must particularly do three main things.¹¹⁰ Firstly, (just like principle 17 above) undertake human rights impact assessment before and during their activities. Secondly seek to prevent or mitigate possible adverse impacts they cause or by business relationships. Thirdly address and remedy any adverse human rights impacts which they cause or they contribute to. The same responsibility of due diligence imposed under the UN Guiding Principles is recognised as an obligation by the African Commission. The African Commission imposed the duty of due diligence and care to corporations and holds that for multinational corporations because of the huge extent of their power, theirs is a higher level of duty.¹¹¹ Where there is breach on account of activities or actions of companies, the African Commission calls for administrative, civil and criminal responsibilities to ensue.¹¹² Indeed as argued by Chirwa and Amodu above, accountability for human rights violations is not just for states but also corporations. This is an important aspect of enforcing human rights. The key for this is state's must adopt a legislative framework providing for the regulation of companies including the various administrative, civil and criminal liabilities for violations.

As regards the positive obligations, corporations have three specified obligations.¹¹³ The first one relates to fiscal and transparency requirements arising from the operations of the corporation's activities including disclosure of identities of owners, profits, taxes, royalties among others. The African Commission states that this is based on two rights of all peoples to freely dispose of their wealth and natural resources; and to a satisfactory environment, favourable to environment in articles 21 and 24 of the African Charter. The second positive obligation is meaningful engagement of affected people on any of the corporation's activities or on decisions that may materially affect them. The last recognised obligation is to contribute to the development needs of the host communities. The African Commission has not specifically elaborated on the positive obligations in the context of the human right to water, however these are essential in promoting this right especially for women. Fiscal and transparency of businesses would create trust and confidence in the citizenry and improve accountability by making corruption and inequitable practices easily identified.¹¹⁴ As already discussed, participation is key in ensuring that vulnerable groups like women who bear the blunt when there is adverse implications on the human right to water, are exercising agency to ensure enjoyment of the right. The requirement to contribute to development needs of the communities also reinforces the need for businesses to take ensure sustainable development including equity due to the social and economic impacts of their operations.

These obligations recognised by the African Commission provide a solid basis for legally holding corporations as having a duty to play a role that promotes the human right to water

¹¹⁰ Water Guidelines (2019) para 33.1

¹¹¹ Guidelines and Principles (2018) para 58

¹¹² Guidelines and Principles (2018) para 59

¹¹³ Guidelines and Principles (2018) paras 63-65

¹¹⁴ See GC 24 on corruption as constituting one of the major obstacles to the effective promotion and protection of human rights, particularly as regards the activities of businesses.

and for states to regulate the corporations to ensure enforcement of duties at the domestic level.

4. Conclusion and Recommendations

Women bear the primary responsibility over water collection and management in their homes. Thus, the water crisis is a women's crisis. This exacerbated gender inequality and violations of other human rights. Businesses implicate the human right to water for women in many ways including through provision of water services that exclude poor households and use or consumption of water that undermines its availability in terms of quality and quantity. Yet business that recognise and uphold the human right to water contribute to realising women's human right to water. Regulation of businesses is key in ensuring a human rights-based approach in its operations and services so that equity and justice are promoted. The regulatory framework so far begins to address some of the concerns regarding the adverse impacts of corporations to women's human right to water, however there is along way to go to ensure enforcement of human rights obligations of corporations.

To make progress on the enforcement of human rights obligations of corporations, especially regarding water, there must now be established international institutional arrangements within human rights bodies to hold multinational corporations accountable for violation of the human right to water. Just as state are held accountable, corporations must be held accountable. Further states must report and be monitored on development of regulations and political commitment to impose legally binding obligations on corporations to respect human rights and the consistent use of appropriate administrative, civil and criminal accountability mechanisms.