

# Realising the right to water and sanitation in Nigeria

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### A. Social Relevance

Realisation of access to water and sanitation has been a fundamental social issue for many countries around the world. According to a recent joint report of World Health Organisation and United Nations International Children's Emergency Fund, as at July 2017, globally, 2.1 billion people lack safe drinking water at home and 4.5 billion people lack safely managed sanitation. In Nigeria, more than 50 million people do not have access to improved water, more than 127 million do not have access to basic sanitation and about 46 million people defecate in the open. These bring with them social and economic implications on the country. For example, an estimated 8.5 million children of which the majority are females are currently out of school for reason connected to lack of separate basic sanitation facilities. About 240,000 die of respiratory infections due poor sanitary conditions every year and an estimated 150,000 to 200,000 diarrhoea-related deaths occur among children below the age of 5 each year. Cholera, Typhoid and Paratyphoid cases are on the increase and half of the population has experienced at least one episode of malaria annually. Economically, the poor sanitation condition is costing Nigeria US\$3 billion annually, representing US\$20 per person per year or 1.3% of the national GDP and 17 million of women and girls who have no toilet spend 3.1 billion productive hours each year finding an open space to defecate.

Access to water and sanitation also received additional attention in both United Nations Millennium Development Goals and Sustainable Development Goals with sets of targets to be achieved in the case of MDGs by 2015 and SDGs by 2030. Nigeria missed its MDG targets and if no concrete measures/strategies are adopted SDG targets will also be missed.

Recently in Nigeria, the international community, civil society, non-governmental organisations and academics have recently been active in advocating for the adoption of approaches to eradicate or mitigate the problems. This research is part of that larger context. It identified some of the problems and challenges hampering progress in water and sanitation sector and advocated for the adoption of approaches which will ensure the attainment of not only the recently recognised human right to water and sanitation and Goal 6 of the Sustainable Development Goals but also broader realisation of economic, social and cultural rights. Specifically, through the utilisation of local and national circumstances, the research advocated for the adoption of a liberal and progressive interpretation approaches by the Judiciary in promoting the protection and realisation of economic, social and cultural rights in the context where such rights have not been formally provided for in constitutional or legislative documents. The research further advocated as well as demonstrated how a human rights-based and an ecosystem approach can be utilised in addressing some of the identified challenges in the sector. A human rights-based approach will provide the framework through which rights of individuals and groups are factored into the plans and programs concerning water and sanitation while an ecosystem approach will help ensure that the needs of the environment are taken care of in a manner that ensures inter-generational equity and environmental sustainability. Several social benefits flow from the adoption of the advocated approaches including ensuring the removal of discrimination in the provision of water and sanitation, strengthening the accountability of duty-bearers, rights-holders and other relevant stakeholders, and promoting the participation of all stakeholders to make water, sanitation

and environmental protection plans and projects all-inclusive. These are important social issues that can promote living a dignified life and promote human security and social justice.

The Research provides concrete recommendations to relevant stakeholders including the executive arm of the government and its relevant agencies; the legislature; the judiciary; the civil society organisations; the general population and the international and donor organisations. Some of the recommendations include the following:

- Domestication of relevant international human rights instruments especially those relevant in the realisation of the right to water and sanitation;
- The removal of non-justiciability clause concerning ESC rights in the Constitution;
- Adoption of a legislation which recognises the right to water and sanitation;
- Strengthening of agencies and institutions through the provisions of appropriate financial resources and political support to discharge their mandates;
- The lessening of bureaucratic procedures to some agencies in order to facilitate effective and efficient response especially during emergencies;
- Strengthening of anti-corruption agencies and removal of political interference from the actions of the agencies in order to be more efficient;
- Amending the National Policy on Water Resources to incorporate the recognition of the right to water and its contents;
- Adoption of a policy for the protection of vital ecosystems;
- Provision of periodic trainings on human rights and water and sanitation issues to relevant duty-bearers;
- Adoption of liberal, purposive and integrated approach to the interpretation of ESC provisions in the Constitution;
- Adoption of management-oriented research and research-oriented management by managers in the water and sanitation sector;
- Adoption of a policy on water connection and distribution that will address problems of marginalisation and discrimination;
- Utilisation of the opportunity provided by the domestication of the ACHPR in realising other critical ESC rights.

The above and other recommendations made in the thesis if adopted will contribute to finding solutions to water and sanitation problems not only in Nigeria but other developing countries having similar circumstances and challenges.

## **B. Target Groups**

In addition to the academic community this research is relevant to a number of stakeholders. Primarily it is relevant to law and policy makers in its identification and analysis of problems and challenges in the realisation of the rights to water and sanitation and the concrete policy steps which are to be taken to address the problems and challenges. The Research is also relevant to the judiciary in its analysis and suggestions of how non-justiciable rights/fundamental objectives and directive principles of state policy can be transformed and can be given concrete meaning without breaching constitutional provisions. The research is also relevant to civil society and non-governmental organisations in its analysis of the role these actors can play in the realisation of not only right to water and sanitation but broader human rights in developing countries. Furthermore, the research is relevant to the general population in its analysis of the important role the population can play in the realisation of their human rights and in holding duty bearers accountable to their obligations. Additionally, the research is relevant to other developing countries who are

experiencing similar problems and challenges on approaches they can adopt in addressing such issues. Lastly, the research is relevant to developed countries, development partners and donor agencies in appreciating national and local circumstances in developing countries, specifically Nigeria and how they can contribute to the realisation of the right to water and sanitation and other economic, social and cultural rights. In order to facilitate actions, copies of the thesis will be shared among identified stakeholders. Additionally, efforts will be made to realise with the FMWR, FME, NHRC, the Judiciary and civil society organisation for the possibility of organising a symposium through which the findings in this research will be shared.

### **C. Concrete Products, Services and Activities**

The concrete products that result from this doctoral dissertation are legal and policy recommendations addressed to relevant stakeholders including, governments at various levels in Nigeria, relevant ministries, departments and agencies of government, members of the judiciary, civil society organisation, general population, development partners and donor agencies.

Its results can best be implemented through policy changes at both local level and national levels. A concrete product or activity that could be envisioned on the basis of this doctoral dissertation would therefore be the adoption of policy changes that incorporates the proposals made in the dissertation. Overall, it is expected that the ideas, findings, and recommendations contained in this dissertation will lead to the following:

- i. the recognition of the right to water and sanitation as human right in Nigeria with adequate provisions made to address its various contents, freedoms and entitlements and the gender dimensions of the rights considered and provided for;
- ii. the adoption of relevant tools by the Judiciary in addressing problems of justiciability of economic, social and cultural rights and in holding duty-bearers accountable in the case of serious omission to implement their human rights international legal obligations;
- iii. the commencement of public interest litigation by the civil society organisations and the general population in the promotion of human rights and environmental protection; and
- iv. the adoption of the advocated approaches by the relevant stakeholders in water and sanitation sectors in Nigeria.

### **D. Innovation**

The Research is innovative in the following respects:

Firstly, its interdisciplinary nature and its utilisation of social sciences methodological approach in assessing a human rights situation. Its originality can also be seen in its generation and utilisation of empirical data from a survey conducted in the research. It demonstrated how legal and policy provisions are at variance with the reality on the ground and what needs to be done to ensure compliance with the legal obligations;

Secondly, it contextualised and rationalised legal, policy, judicial, institutional and funding problems associated with the realisation of the right to water and sanitation in Nigeria. This is important not only in the context of Nigeria but other developing countries which are struggling to meet their legal obligations in the context of the right to water and sanitation;

Thirdly, the research not only contextualised how human rights-based and ecosystem approaches can be applied simultaneously in the realisation and promotion of human rights to water and sanitation, but also struck a scientific balance in their simultaneous application.

### **E. Plans and Implementation**

This research will be published as part of human rights research series to ensure wider publicity. Attempt will also be made to publish a summary of the research in the African Journal of Human Rights. To ensure wider circulation and to ensure that the relevant target groups benefit from the findings in this research, free published copies of the research will be provided to the relevant governmental and non-organisations and authorities identified in the research as well as some selected universities in Nigeria.

It is suggested that additional research covering larger number of participants should be pursued in order to identify additional challenges in these areas. Similarly, the contents of the right to sanitation which has not been explored in this research should be conducted. In this regard, special attention should be made to the gender dimension of sanitation.