

Poverty, women and the human right to water to grow food

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Introduction

The global community is united in its commitment to remove the scourge of world poverty. One core factor to achieve this is access to water from which poor people, especially women, draw multiple benefits.

Such benefits include enhanced livelihood security, generation of wealth, reduced health risks and vulnerability (Poverty Environment Partnership 2006). On another front lack of access to water is both a cause and consequence of poverty and inequality. It undermines productivity and economic growth, reinforcing the deep inequalities that characterise current patterns of globalisation and trapping vulnerable households in cycles of poverty (Human Development Report 2006). In order to reduce poverty, therefore, serious consideration needs to be given to guaranteeing access to water that goes beyond domestic uses. Productive uses of water at the household level that comprise mainly small-scale activities, including growing food and earning an income, would significantly impact the living standards of many people. Such uses of water include fruit and vegetable gardening, keeping livestock and brewing beer.

However, predominantly it involves small home gardens for vegetables and fruit. Home gardens are a source of nourishment and contribute to achieving a balanced diet from the different types of vegetables or fruits; they are also a source of income through the sale of the produce. The income generated contributes to livelihood essentials such as clothes, school fees or medicines. Advocates argue that this brings the access to water for home gardens within the primary use of water, like water for domestic purposes. It is further argued that women, who represent the majority living in extreme poverty, stand to benefit the most from such recognition as they are the ones that manage small gardens for their families, thereby ensuring food security and improving living standards.

This article discusses whether access to water for subsistence farming should be accommodated under the human right to water and the implication this might have.

The human right to water

Women are guaranteed a human right to water in the two main instruments dealing with women's rights at the global and regional level. The right to water is understood within the right to an adequate standard of living and food security, both of which are linked to poverty alleviation.

The Convention on the Elimination of All Forms of Dis-

crimination Against Women (CEDAW) is among the few human rights instruments at the global level that guarantee the human right to water, but specifically for rural women. CEDAW, a landmark international agreement that affirms principles of human rights and equality for women, recognises the rural and urban divide and specifically aims to address discrimination or disadvantage based on locality or geography. In article 14, States Parties are enjoined to take into account the particular problems faced by rural women and the significant roles that they play in the economic survival of their families, including their work in the non-monetised sectors of the economy, and to take all appropriate measures to ensure the application of the provisions of CEDAW to women in rural areas. It then calls for the provision of infrastructure and basic needs, including education, health care, water, sanitation, electricity, transport, and communications infrastructure, as conditions for adequate living.

The right to an adequate standard of living guarantees necessary conditions of life sufficient for well-being and human development in terms of physical, moral and mental development (Craven 293). It has been connected to the conditions necessary to enable a person live in dignity, to participate in society and to make a living for themselves and their family.

The survival and livelihood interest that the right to adequate standard of living guarantees is best expressed in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 11(1) requires states to provide for:

the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

The Committee on Economic, Social and Cultural Rights (CESCR) established that the human right to water is implicitly included in the list of rights required to ensure an adequate standard of living in Article 11(1). In its General Comment 15, which is held as the most authoritative elaboration of the right at the global level, the CESCR mainly relies on the interdependence of human rights, especially the rights to an adequate standard of health, food, life and dignity, to arrive at an independent right to water in mainstream human rights instruments.

Of interest for this article is the right to an adequate standard of living, understood as a right to a livelihood contributing to the continuous improvement of living conditions. Water is essential for survival by meeting basic human needs but also as an enabling resource for livelihoods.

The regional human right to water elaboration recognises the strong link between the right to water and food production

For poor households in the rural and peri-urban areas, water supports livelihoods through small home gardens, livestock rearing and micro-enterprises such as brewing beer, brick making and pottery. Further, an adequate supply of good quality water within a reasonable distance frees up time that would otherwise have to be spent in fetching water, as well as contributing to good health and ultimately enabling people to work (Corpa 2010). This is crucial for poor people, particularly women, who often constitute the majority of the poorest and disproportionately bear the burden of providing water for their families.

The CESCRC defines the right to water as entitling everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses (para 10). Personal and domestic use of water is defined narrowly as water to meet the human need for consumption, personal sanitation, washing of clothes, food preparation, personal and household hygiene (para 12). This narrow definition excludes an entitlement to water for home gardens and other essential livelihoods. This is odd, especially when the CESCRC acknowledges Article 1 Paragraph 2 of the ICESCR, which provides that 'a people may not be deprived of its means of subsistence'.

Further, it makes calls on States Parties to ensure that there is adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples and disadvantaged and marginalised farmers, especially women (para 7). The CESCRC also makes reference to the United Nations Convention on the Law of Non-Navigational Uses of Watercourses, which declares that, in determining vital human needs in the event of conflicts over the use of watercourses, special attention is to be paid to providing sufficient water to sustain human life, including both drinking water and water required for production of food in order to prevent starvation. Furthermore, the CESCRC specifies that water for both domestic purposes and for the prevention of starvation and disease must be prioritised (para 6). However, the CESCRC does not establish a human right to water for growing food or for securing a livelihood.

At the African regional level, women's right to water has also been specifically provided for in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol). Article 15 on the right to food security obliges States Parties to take appropriate measures to provide women with 'access to drinking water, sources of domestic fuel, land,

and the means of producing nutritious food'. The Rome Declaration on World Food 1996 stated that poverty 'is a major cause of food insecurity and sustainable progress in poverty eradication is critical to improve access to food.'

Food security contributes to poverty reduction and development mainly through its contribution to health and to reducing families' health cost burden. Water is key to food security as no food can be produced without it. Unlike the CESCRC, the regional human right to water elaboration recognises the strong link between the right to water and food production, which accounts for 70% of water use.

The African Human Rights Commission (African Commission) has interpreted the right to water as deriving from the right to health in several of the cases brought before it. For instance, in the *Centre on Housing Rights and Evictions v The Sudan*, the African Commission found that the right to water was violated when the government of Sudan poisoned water sources. It did not pronounce an independent human right but linked it to the right to health as an auxiliary right that is necessary to realise the right to health, which is explicitly provided for in the African Charter on Human and Peoples' Rights (Article 16).

Further elaboration of this right is found in the Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (the Guidelines), where the African Commission stipulated that although the human right to water is not directly protected in the African Charter, it is implied in the protection of other rights. The Guidelines state:

[t]he human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal, domestic, and agricultural uses (para 88).

As already alluded to, home gardens play a vital role in helping poor households supplement food security. They produce a source of nourishment to prevent starvation but also nutritious foods that may help avert malnutrition and micronutrient deficiencies, and hence prevent disease. Home gardens usually grow a variety of vegetables and require limited resources as they are usually small and use traditional methods and locally available planting materials.

They also free up income that would otherwise have been spent to acquire the same food at high prices. The produce from home gardens may also generate an income for the family and hence improve its financial status and help to meet its other day-to-day needs.

As most home gardens are managed by women, they may be the only source of an independent income and contribute to women's poverty alleviation. A guaranteed access to water as a human right for food production would therefore have a huge potential to impact on poverty.

The human right to water for growing food

In 2012, the UN Food and Agriculture Organization estimated that nearly 870 million people of the 7.1 billion people in the world were suffering from chronic undernourish-

ment in 2010–2012. People go hungry because they cannot afford to buy food. It is on record that in 2008, the surge in food prices drove 110 million people into poverty. The majority of these undernourished people are in developing countries where food insecurity is high. Chopra (2010) wrote that it is people who lack access to water that are more likely to face acute or chronic hunger and vice versa.

The right to food is dependent on access to water as no food can be produced without it. Further, the largest use of water is for growing food: agriculture accounts for 70% of all water use. It would therefore be important to recognise a human right to water for food production, to prevent starvation.

This point was raised by the UN Special Rapporteur on the Right to Food, J. Ziegler, when commenting on an initial draft of General Comment No. 15. He stated that water should be viewed as a source of food security and included in the content of the right to water besides domestic uses. Unfortunately the right to food elaborated in General Comment 12 does not highlight this link.

With the exception of the Guidelines by the African Commission, the general elaboration and understanding of the right to water mainly concentrates narrowly on the public health perspective and prioritises the provision of safe and clean water for drinking, sanitation hygiene, and other domestic activities. There are several reasons. First, any food production requires much higher water supplies than the requirement to meet the basic human needs that is recognised in domestic water uses. This is one consideration that Winkler (2008) advances against formulating a human right to water for growing food as a priority alongside domestic uses. Whereas the WHO has established that 100 litres per capita per day are sufficient for domestic purpose, at least 2 000 litres per capita per day are required for producing food (Howard & Bartram 2003: 22, World Water Assessment Programme 2006: 247).

It is therefore argued that including a human right to water for growing food would be guaranteeing claims to large quantities of water (Winkler 2008). Such large quantities could be guaranteed progressively after meeting domestic water requirements. However, thus far there has been no movement to operationalise the provision of water beyond the basic domestic requirement (Hall & Others 2013).

A second consideration regards the degree of reliance on water for both domestic uses and food production (Winkler 2008:3–4). Winkler argues that water for drinking, cooking, washing and personal hygiene cannot be substituted and require direct access to water. Food production or provision can, however, be met through a variety of means other than subsistence farming or direct access to water. Not everyone needs to produce food as it can easily be transported from one area to another, hence not all people depend on direct access to water resources to meet this need.

Unlike the rural and peri-urban areas, in the urban ar-

reas only a small portion of the population grows its own food. How would the amount of water for growing food be allocated, bearing this in mind? Biswas et al (2008) suggest several approaches, including the direct additional allocation of water to farmers with the expectation that they will grow food for many families. A register may also be used to capture and address the needs of subsistence farmers, just like the indigent register in South Africa which entitles poor households to an additional free basic water provision over and above that allocated to others. This right would not be for individuals to claim but would rather be a household right.

Furthermore, whereas water for domestic purposes aims to fulfil direct human water requirements such as for consumption and personal hygiene, the human right to water for food production would be fulfilling food requirements rather than water requirements. According to Winkler, this would unduly broaden and undermine the right to water, which will then be relied on for so many additional requirements such as water for energy production or transport (Winkler 2008:5).

This would make the right intangible and perhaps impossible to implement. However, to avoid including just any other human use of water under the human right to water, the survival interest test may be employed. The human right to water would only guarantee the amount of water necessary for survival, which would include water for food production to prevent death by starvation while excluding other uses within the priority guarantees.

Conclusion and recommendation

Although a human right to water for food production would greatly contribute to women's poverty alleviation through food security, nutrition and income generation, its recognition would make this right unnecessarily vague and difficult to implement universally. Food production requires much higher quantities of water and is not directly required by everyone as food security does not require food production by each person.

However, the vital role that water plays in the livelihoods of poor rural and peri-urban residents cannot be ignored and requires special protection. The right to water for growing food can be incorporated within the right to water through progressive interpretation that moves beyond the public health considerations of domestic water uses. This will, however, require dealing with several considerations on the implementation of such a right, including determining the right amounts of water and how to distribute it.

The human right to food offers the best legal protection for subsistence farmers and the best way to alleviate concerns around poverty alleviation, especially for women. The right to food is guaranteed in Article 11(2) of the ICESCR, which recognises the fundamental right of everyone to be free from hunger. Under this right, States Parties are obliged to prevent starvation as a priority, and to

guarantee access to the minimum food, in sufficient quantity and which is nutritionally adequate and safe, to ensure freedom from hunger (CESCR General Comment 12 para 14). The core content of the right to food covers the promotion of subsistence farmers and their need to access water as this would ensure that the minimum essential levels of food are met both through production and income generation. The right to food can therefore guarantee, as a

priority, the water that is necessary for home gardens and thereby contribute to poverty alleviation.

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