

# Governance of Decentralized Sanitation

## The Human Right to Sanitation

Name of the Lecturer: Pedi Obani

Organization: UNESCO-IHE (Netherlands); University of Benin (Nigeria)

Country: Netherlands



**UNESCO-IHE**  
Institute for Water Education

# Presentation Outline

Section 1: Introduction

Section 2: Sources

Section 3: Drivers

Section 4: Benefits

Section 5: Conclusion

# Learning Objectives

To understand the:

- a. Meaning of the Human Right to Sanitation
- b. Theoretical justifications for the human right to sanitation
- c. Sources of the human right to sanitation
- d. Drivers of lack of access

## Section 1

# Introduction

## Meaning of the Human Right to Sanitation

- Sanitation is a ‘system of collection, transport, treatment and disposal or reuse of human excreta, and associated hygiene’
- ‘States must ensure without discrimination that everyone has physical and economic access to sanitation, in all spheres of life, which is safe, hygienic, secure, socially and cultural acceptable, provides privacy and ensures dignity’
- Human rights cross-cutting criteria: non-discrimination, participation, accountability, impact & sustainability

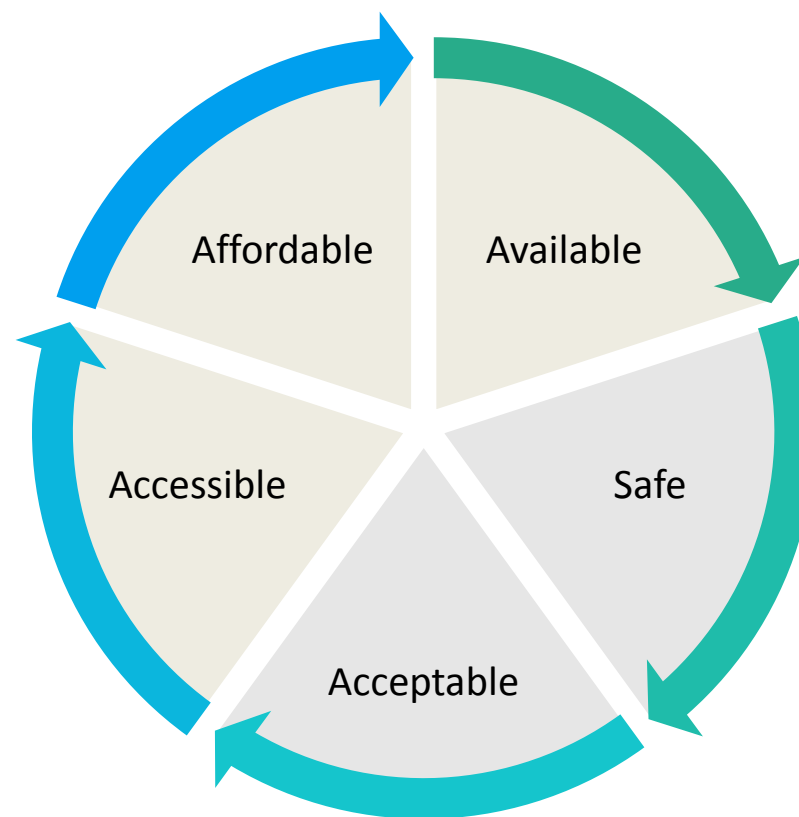


Fig. 1 Normative Contents

## Theoretical Justifications

- Elevates access to basic sanitation to the status of a legal entitlement
- Addresses power imbalance and inequities in the allocation of access and use of ecosystem services
- Provides an avenue for the population to hold the State to account
- Attracts international focus to the plights of the local people
- Goes beyond averages to address the needs of special groups, including the poor, marginalized, and vulnerable
- Empowers local people to take part in the decision-making process
- Provides an international system for monitoring progress

## Question for Section 1

- Is the human right to sanitation a necessary right to address the global challenge of lack of access to sanitation?

## Section 2

# Sources



## Treaties

- 1966 - International Covenant on Economic, Social, and Cultural Rights
- 1979 - Convention on the Elimination of all Forms of Discrimination against Women
- 1989 - Convention on the Rights of the Child

## International Conferences

- 1992 - United Nations Conference on Environment and Development (Agenda 21)
- 1992 - International Conference on Water and the Environment (Dublin Statement)
- 1994 - International Conference on Population and Development
- 2002 - World Summit on Sustainable Development

## United Nations Human Rights Institutions

- 2005 - Draft Guidelines for the Realization of the Right to Drinking Water and Sanitation. E/CN.4/Sub.2/2005/25
- 2006 - Human Rights Council Decision 2/104
- 2007- Report of the United Nations High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments
- 2008- Human Rights Council Resolution 7/22
- 2009- Human Rights Council Resolution 12/8
- 2010- UN General Assembly Resolution A/RES/64/292
- 2010- Human Rights Council Resolution A/HRC/RES/15/9
- 2011- Human Rights Council Resolution A/HRC/RES/16/2

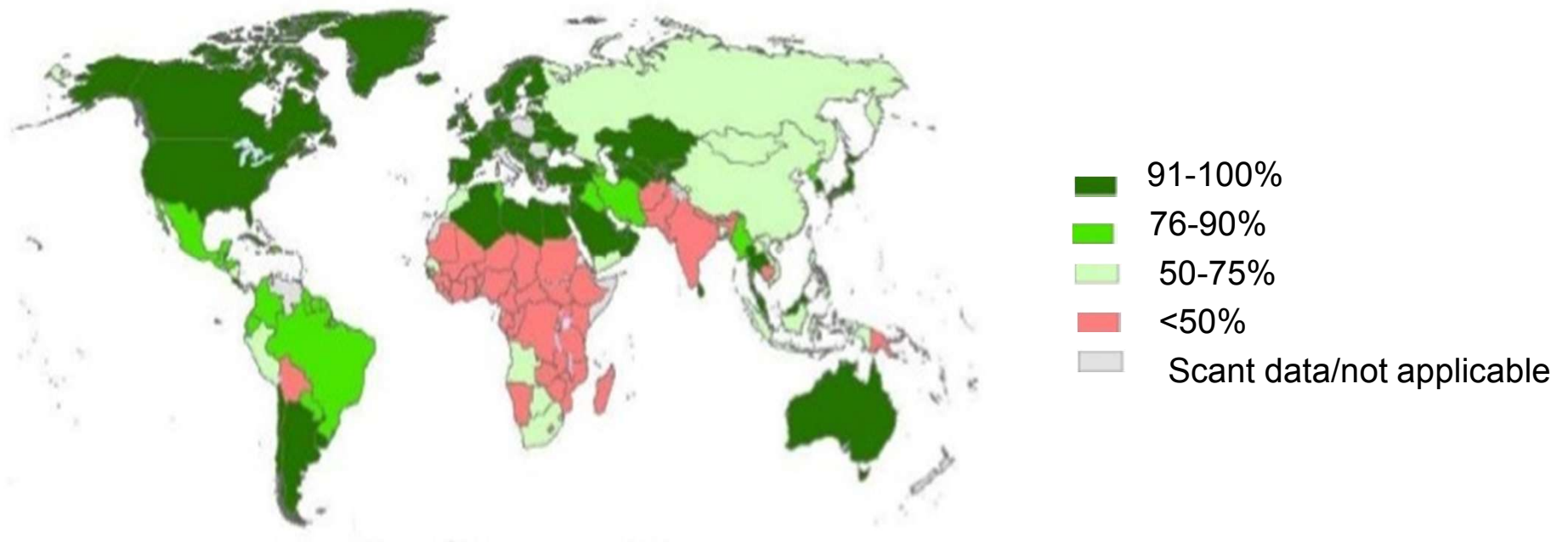
## Question for Section 2

- What aspects of the right to sanitation are reflected in the national laws and policies in your country?

## Section 3

# Drivers

## Access to Improved Sanitation as at 2012



Source: WHO & UNICEF, 2014

## Drivers of Lack of Access

Level	Drivers	Economic	Social	Environmental
Local / National	Direct	Household poverty	Poor maintenance	Weather variability
			Culture	
			Non-prioritisation	Natural Disasters
	Indirect	Risk aversion	Population growth	Non-recovery of resources from waste
		Privatisation	Weak institutions	
			Demographic trends	
International	Indirect	Foreign debt	Conflicts over transboundary water resources	Climate change
		Virtual water trade		
		Sanctions		
		Aid		

Source: Obani, P. & Gupta, J., 2015

## Question for Section 3

- In your experience, what are the drivers for lack of access to sanitation in your country?



## Section 4

# Benefits of the Human Rights Based Approach

## Empowers residents in informal settlements

- Argentina : The Conet Community in Buenos Aires
  - In 2004, residents from the Conet neighbourhood approached COHRE & CELS with complaints about their lack of access to basic water and sanitation services
  - COHRE & CELS supported the community through providing trainings on the use of administrative and judicial mechanisms for the enforcement of their rights
  - The community was thereby empowered to advocate for the inclusion of Conet settlement in the planned public network operations
  - In 2007, the relevant works commenced to include the community in the network

## Prevents forced evictions & ensures an adequate standard of living

- Kenya : ***Ibrahim Sangor Osman v Minister of State for Provincial Administration & Internal Security Eklr (2011)***
  - Residents of in informal settlement were forcibly evicted and denied access to water and sanitation and other basic services
  - The Court held that this amounted to a violation of their constitutionally protected rights supported by international human rights law
  - Also, that water and sanitation are essential for human dignity and linked to the right to an adequate standard of living
  - The Court ordered that the petitioners to reconstruct reasonable residences or provide alternative housing with all the amenities that were on the land before the demolition, and that the respondents be allowed to return

## Promotes non-discrimination and meaningful participation

- South Africa : ***Beja and Others v Premier of the Western Cape and Others*** (2011)
  - The Court held that the provision of unenclosed toilets to a poor community amounts to a violation of their rights to human dignity and adequate housing in particular
  - Also, the failure to provide an avenue for meaningful participation and the failure to take the needs of vulnerable groups into account amounted to a violation of fundamental rights
  - To be meaningful, participation must be :
    - a. preceded by some process of information sharing and where necessary technical support to the community
    - b. concluded with duly authorised community representatives;
    - c. concluded at meetings convened with adequate notice for the representatives to properly obtain the mandate of their constituencies; and
    - d. properly minuted and publicised.

## Section 5

# Conclusion

## Inferences

- The human right to sanitation consists of five normative contents and five cross-cutting criteria developed on the basis of human rights principles and standards.
- The theoretical justifications for the human right to sanitation highlight the need to empower the billions of people living with access to be able to demand action from the State, and monitor implementation.
- The sources of the right in international law include both hard law and soft law sources.
- There are drivers of lack of access which operate at different levels of government and therefore require joint action from stakeholders at all levels.
- Despite the challenges, the human right to sanitation is a very potent tool for inclusive development, particularly for the vulnerable.

## Further Reading

- World Health Organization and UNICEF (2014), *Progress on Sanitation and Drinking-water-2013 Update*, Geneva, Switzerland: World Health Organization
- Waterlex and WASH United (2014), *The human rights to water and sanitation in courts worldwide: a selection of national, regional, and international case law*, Geneva: Switzerland: WaterLex
- Obani, P. and Gupta, J., *The Evolution of the Right to Water and Sanitation: Differentiating the Implications* (2015) 24(1) *Review of European Community & International Environmental Law* 27-39
- Obani, P. and Gupta, J. (2015), "Human Security and Access to Water, Sanitation, and Hygiene: Exploring the Drivers and Nexus" in Pahl-Wostl, C., Gupta, J., and Bhaduri, A., *Water Security Handbook*, Springer (forthcoming)



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