



SIDE EVENT: ENFORCEABILITY OF THE HUMAN RIGHT TO WATER AND SANITATION - Roles of different actorsⁱ

14TH January 2015

The function of judges

The role of judges and prosecutors has been key in terms of enforcing the human right to water and sanitation. To this effect, it has been referred as a “judicialization of the implementation of the right”, especially when it refers to pollution issues that limit access to “safe water”.

As a departure point, the need to develop national policies in order to ensure adequate acknowledgment of the human right to water and sanitation was pointed out, bearing in mind that this is an international right. To this effect, the importance of ensuring universal access to justice, without any discrimination, was highlighted, in order to enable authentic enforceability of the rights. In some countries, the human right to water is even included in the Constitution, facilitating to a great extent the development of policies within the national legal framework. Yet, in other countries, the human right to water and sanitation is not explicitly stated in the Constitution; however, this does not prevent compliance with this human right, as an international right.

The roles of different actors

Companies (as users and providers of water services), local, regional and national governments (as those holding the responsibility for respecting, protecting, and implementing the right), as well as non-government organizations (as drivers of the processes to enforce the right) have a renewed framework which reinforces their political and social actions since the approval of different resolutions on the human right to water and sanitation, both within the scope of the Human Rights Council, as well as of the United Nations General Assembly. Many water using companies are actively promoting this right (in particular with their workers and the communities where they are located in developing countries), or are involved in processes towards respecting and resolving the human right to water and sanitation. Local, regional and national governments face the challenge of defining and implementing administrative and legal mechanisms that ensure social participation, and NGOs increasingly attach a greater weight not only to their role as project implementers, but also to their role strengthening the capacities of those holding the rights so that they may demand their enforcement and supporting enforceability processes at the national and international level.

Civil society should get actively involved in strategic litigation

In the absence of national or regional laws that regulate clearly which water uses and which sanitation conditions are considered a human right, civil society was invited to get actively involved in what is known as strategic litigation, that is, to work together with lawyers, judges, prosecutors and academia to document cases where the right is violated, to encourage the development of jurisprudence that reinforces the protection of the human right to water and sanitation. It is important to note that this also involves risks. Along this line, several examples of court rulings related mainly to the protection of water resources in several basins of Latin-American countries were presented: the Mendoza ruling in Argentina, the Bogota river basin in Colombia, and rulings in Spain on legal certainty in the sector and consumers.

Promotion of a new culture on Human Rights

In order to increase awareness among citizens in relation to the framework of promotion and protection of human rights, which is still limited, all sectors were encouraged to work in the area of awareness raising, putting a particular emphasis on the human right to water and sanitation. This entails putting in place a focus based on human rights, raising awareness among citizens about the rights they have and that they may demand at the legal level, but also at the political level, to all levels of public administration.

Collaboration among actors

It is necessary to promote collaboration among actors in the legal, public, and social domains, as the only path to move forward towards effective mechanisms to enforce the human right to water and sanitation, with the intention to ensure its progressive implementation, in a non-discriminatory and universal manner.

Session photos:





ⁱ Conclusions of the Zaragoza Conference Side Event on the Fulfilment of the Human Right to water and sanitation. The event was organized by ONGAWA, Ingeniería para el Desarrollo Humano, the Spanish Human Rights Office of the Ministry of Foreign Affairs and Cooperation, the University of Zaragoza, the Zaragoza Bar Association and Fundación Canal.