

THE NORTH-SOUTH DIMENSIONS OF WATER SECURITY, Potchefstroom, 14-15 May 2015
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Water security and human rights



ITÄ-SUOMEN YLIOPISTO

Water Security (UN Water 2013)

- Sustainable access to adequate quantities of acceptable quality water for
 - Sustaining livelihoods, human well being and socio-economic development
 - Ensuring protection against water-borne pollution and water-related disasters
 - Preserving ecosystems
 - Protecting human rights
- Basic human needs

UN General Assembly (July 2010)

- The right to safe drinking water and sanitation is a human right that is essential for the full enjoyment of life and all human rights
- 122 votes in favour, none against, 41 abstentions

Contents of the presentation

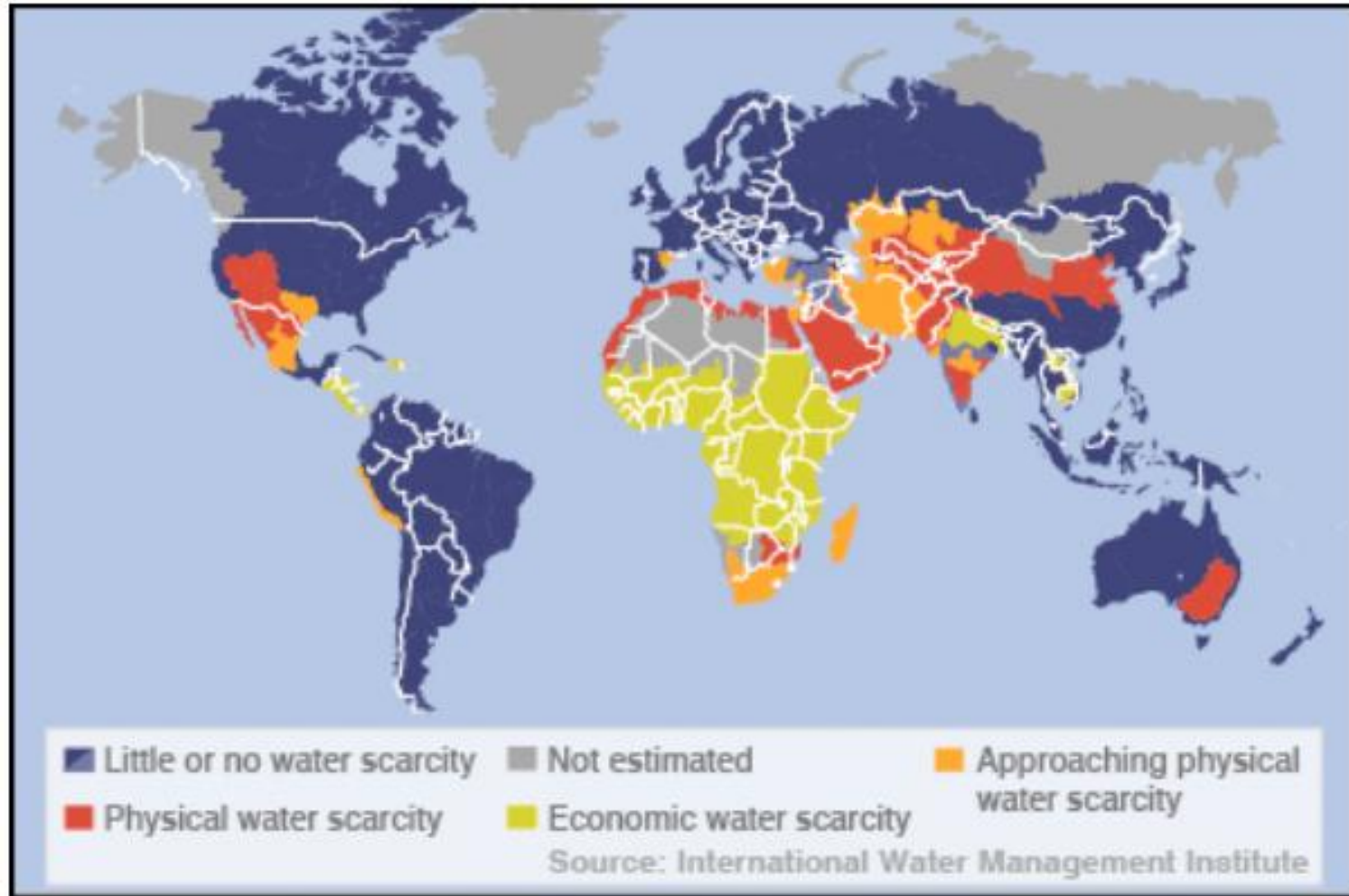
- Background
- Human right to water and its legal implications
- Order of priority between different water uses
- Finnish perspectives

Background

- Around 750 million people with inadequate access to safe drinking water
 - Over 1 billion with inadequate access to sanitation
- Around 3 million die every year because of water-related diseases
 - 80 % of all illnesses and deaths in developing world water-related
- Increasing demands for freshwater resources
 - Uses: Agriculture 70 %, industry 22 %, households 8 %

Background

- Water and sanitation to meet basic human needs
 - Drinking, cooking, personal hygiene, 20-100 litres per day
 - In the immediate vicinity of a household, educational institution and workplace
 - Economical affordability
- Political commitments
 - Agenda 21 (1992): All urban residents have access to 40 litres of safe water per day
 - Millennium Development Goals: States resolve to halve the proportion of people with inadequate access to water and sanitation



"Map showing Global Physical and Economic Water Scarcity 2006" by BBC NEWS - <http://news.bbc.co.uk/2/hi/science/nature/5269296.stm>.
Licensed under Creative Commons Attribution-Share Alike 1.0 via Wikimedia Commons - http://commons.wikimedia.org/wiki/File:Map_showing_Global_Physical_and_Economic_Water_Scarcity_2006.gif#mediaviewer/File:Map_showing_Global_Physical_and_Economic_Water_Scarcity_2006.gif

Human right to water

- Human rights treaties
 - Water not mentioned in the Covenants on Economic, Social and Cultural Rights (ICESCR) and on Civil and Political Rights (ICCPR)
 - Water included: conventions on the Elimination of Discrimination against Women (art 14.2); the Rights of the Child (art 24); the Rights of Persons with Disabilities (art 28.2)
- HRW is usually based on art. 11-12 of the ICESCR
 - The right to an adequate standard of living including adequate food, clothing and housing; and to the enjoyment of the highest attainable standard of physical and mental health

Human right to water – legal implications

- HRW as a socio-economic right (Art. 2 of the ICESCR)
 - A state has to undertake to take appropriate steps, to the maximum of its available resources, with a view to achieving progressively the full realization of these rights.
 - International assistance and co-operation and particularly the adoption of legislative measures
- State obligations to respect, protect and fulfil the HRW
 - Realisation, not to lower the level achieved, interpretation of law
 - States' negative and positive obligations

Human right to water – legal implications

- Subjective and realizable rights? Boundaries for political discretion?
 - Legislative measures to realize the HRW
 - Constitutional rights
 - Legal rights to abstract water and receive water services
 - Role of national courts

Order of priority of the uses of waters in international law

- 263 international river basins, 60 % of global freshwater, 40 % of world's population
- 1997 UN Water Convention (art 10)
 - No use enjoys inherent priority over other uses
 - Conflicts between uses shall be resolved with special regard being given to the requirements of vital human needs
 - Statement of understanding: Sufficient water to sustain human life (drinking water and necessary food production)

Order of priority of the uses of waters

- The principle of equitable utilization (art 5-6 of the UN 1997 Convention)
 - States have to utilize an international watercourse in an equitable and reasonable manner
 - Population dependent on the watercourse, available alternatives
- UNECE Protocol on Water and Health (art 6)
 - Parties shall pursue the aims of
 - Access to drinking water and provision of sanitation for everyone
 - Targets for the standards and levels of performance

Finnish perspectives

- Human rights-based approach to water
 - Finland endeavours to promote the human right to water in the international dialogues and is committed to operationalize it in its development co-operation
- Water or sanitation not mentioned in the constitution
 - The right to water linked to the constitutional rights to property (Section 15), environment (20) and social security (19)

Conclusions

- Background
 - Political commitments ineffective in healing the water and sanitation crisis – Human right to water and water security to meet basic needs
- Human right to water
 - Socio-economic right, legal implications depend largely on States and courts
- Order of priority of the uses of waters
 - Vital human needs have to be prioritised over other uses
- Finnish perspectives
 - Development co-operation and social security

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