Summary Report

Political Café “Testing the water: How can applying the human right to water and sanitation enhance the World Bank’s policy and practice?”

9 October 2008, Washington D.C.

Panel
Virginia Roaf, Centre on Housing Rights and Evictions (COHRE)
Hameda Deedat, Gender, trade and water activist, Umzabalaso We Jubilee
Jorge Mora Portüeguez, Freshwater Action Network Central America (FANCA) – represented by Danielle Morley, Executive Secretary Freshwater Action Network
Jamal Saghir, Director Energy, Transport and Water, World Bank
Herman Wijffels, Executive Director World Bank

Summary of introductions and debate
The debate took place in a context of great openness and willingness to engage by both the World Bank and civil society. As almost all panelists indicated this is a huge departure from a few years ago when both parties weren’t ready to enter into a dialogue.
**Introductions**

Virginia Roaf, a researcher into the practical implications of the right to water and sanitation (RTWS) for COHRE, opened the debate by pointing out that lack of political will is one of the major obstacles in providing access to safe water and sanitation for all. The right to water and sanitation is so important because it can help generate the will to make the necessary reforms to policies, to raise resource, to utilise such resources in a manner that focuses on the needs and aspirations of marginalised and vulnerable groups and those who lack access to these essential services, and to monitor performance. She summarised four key features of the right to water and sanitation which can make a significant contribution to current development efforts to improve universal access to water and sanitation and gave examples of practical experiences of how this has worked out in different developing countries. The key features she mentioned are:

- Priority for basic access to water and sanitation services;
- Prevent discrimination and neglect of vulnerable and marginalised communities;
- Participation and access to information; and
- Improved accountability.

Hameda Deedat, a civil society activist with (research) experience on the RTWS, specifically in South Africa, took the Millennium Development Goals (MDGs) as an entry point to discuss the relevance of the RTWS for the World Bank. She challenged the World Bank to be open to recognizing the value of water beyond economics and argued that this is fundamental for the Bank if it is truly committed to supporting and realizing the MDGs.

Why is it so important to have water and sanitation recognised as a right; would improvement in access not suffice? Hameda uses the case of South Africa to stress the importance of legal recourse in instances of violations of these rights. South Africa is one of the few countries that has achieved its MDGs- however, when this success is measured on the ground or at community level you find that poor communities are still struggling to access ‘basic’ water and sanitation services in spite of this achievement. But having the legal recourse that recognises water and sanitation as a right has seen court cases being brought against private companies and the state to ensure that access to water and the right to access water is achieved.

While this might sound alarming - civil society and grass root movements taking governments to court- the long term implications have to be considered. By having the ability to challenge that the right to water and sanitation is achieved, the lives of communities and the poor in particular improves. With this improvement is the automatic improvement of health and hygiene practices, which in turn reduce expenditure on health and health related diseases. It also means that families in both rural and urban areas can used water as an economic input into activities which allow them to either sustain themselves through food gardens (individual or community), or to develop small and medium entreprises. All of which then improves the quality of life for individuals and communities as a whole. And is this not precisely some of the outcomes that you would like to see as part of the MDGs?

Jorge Mora Portuguez, an environmental lawyer and Executive Secretary of FANCA, could not attend the Political Café due to circumstances, but his speech was read out by Danielle Morley. His introduction gave an impression of the Central American processes of acknowledging water as a human right. These processes at the national
and regional level confirm a very strong tendency to recognise this human right in the majority of Latin American countries, and shows a consensus by the most important players in our region, including the World Bank.

In Central America the main water providers are communal structures in the rural and peri-urban areas, and public agencies in the main cities of all countries. The majority of social sectors in Central America do not agree with the transformation of these public services in profit business incorporating private companies to supply freshwater to the population. The recognition that access to water is a human right implies the immediate reduction of serious social conflicts between different large water users and communities. Mines, hydroelectric companies, tourism corporations and agro-industries have serious problems to develop their activities because the communities don’t allow them. If international banks, development cooperation agencies, governments and authorities agreed that first of all, the priority water use, is the freshwater supply and that it is a human right, it would be a very positive and strong signal to the communities to engage in a process of dialogue and negotiation that allows to distribute water between the different users.

Both Jamal Saghir, Director for Energy, Transport and Water at the World Bank, and Herman Wijffels, Executive Director to the World Bank, acknowledged that access to water and sanitation is a human right and fully supports UNCESCR General Comment nr. 15, but they expressed the following reservations:

• Recognising that the right to water and sanitation supports the right to an adequate standard of living, this does not mean that water should be provided for free.
• The World Bank cannot be a driver of this right, for several reasons, including the need for an open dialogue with recipient governments based on content rather than principles; the fact that the Bank at this point in time is reluctant to add additional conditionalities to their loans; and the fact that the Executive Board is not on one line on the issue of human rights.

According to Herman Wijffels, the most important thing civil society should focus on is getting its message absorbed by people dealing with water and sanitation at the World Bank. This is where changes can be expected.

Furthermore, they stated that declaring water and sanitation to be a right is one thing, but there is a need to make investments and this is where the main role of the World Bank lies. In providing access to water and sanitation, it was argued, the Bank acts fully in line with General Comment nr.15, by making efforts in obtaining results in the areas of sustainability, affordability and equitability.

Also, there are broader developments that need to be taken into account as they greatly impact access to water and sanitation. We can think of pollution, depletion of resources, climate change, non-price obstacles such as land management and access to credit. Even when there is a right to water and sanitation, these developments pose a serious threat to making the right come into effect. The World Bank is among the few to tell countries to stop focusing on single issues and to look at policies related to e.g. extractive industries, land management, food and water in an integrated manner.

**Debate**

In reaction to these introductions, a first reaction was asked from panelists. Thereafter the debate was opened to the floor. Hameda Deedat reacted to the
exposes by the two World Bank representatives by saying that creating extra conditionalities is definitely not what civil society is asking for. Applying the RTWS makes good business sense, since financing governments that do not recognise this right will in the long run have social, economic and health implications. As the Bank, you don't have to say that "water is a right", you just need to deal with it. I know the World Bank does support CSOs and that is exactly a space you can use: are you engaging civil society on these issues?

The concern Jamal Saghir expressed that the RTWS might raise the expectation that water should be provided for free, was countered by Virginia Roaf stating that the RTWS requires that water is affordable. This is a big difference as to saying it should be for free. In practice, it will indeed mean that for some it should be provided for free, but for most it should just come at an affordable price.

Virginia Roaf was pleased that the World Bank seems happy to say they see water as a human right. There is however a need for the Bank to acknowledge the RTWS more widely throughout different sections of the Bank (e.g. in their social development programmes: community development, voluntary resettlement policies, indigenous peoples, etc.). The goals in these programmes will not be achieved without recognizing water as a human right.

One comment from the audience pointing in this direction underlined that there is a need to focus on the safety of drinking water, not on access per se. There was agreement from both Hamed Deedat and Virginia Roaf on this. First it was noted that if mention is made of water as a right (to life), the issue of safety of drinking water is implicit. In the whole discussion around the RTWS, issues of health, access to education, etc. are implied. A second comment was made on the fact that there are no definitions of safe water represents a crucial gap within the MDGs.

From the World Bank side, Jamal Saghir added to this that it is very likely that the issue of safety will only get worse and that it’s a thing we’d better start watching. Furthermore, he enumerated the many challenges for development in Africa and the priority they are given: energy, infrastructure and water are the main concerns now. There is a real need to make sure to keep the focus on water. This can only be done by looking at water from the perspective of infrastructure and financing etc. If we focus purely on the MDGs, that will not be enough in these times of multiple crises (food, energy, credit). The Bank intends to continue to play a leadership role in the water and sanitation sector, but it doesn’t want to be a monopoly.

It was further pointed out by someone in the audience that legally, the RTWS is not a political right, but falls into the category of economic, social and cultural rights. This is regarded by legal experts as a different, softer category of rights. The acknowledgement of the RTWS, requires a mentality shift within the World Bank in thinking about rights at the level of governments to rights at the level of individuals. There was consent from Virginia Roaf on this, who added that the RTW is now enshrined in the International Covenant on Economic, Social and Cultural Rights, ratified by 157 countries. The RTW is thus implicit in their ratification even if they do not explicitly recognise it. The World Bank needs to acknowledge that countries that they work with have at some level ratified the RTW. Although Wijffels agreed with the comment in that it might be helpful for the Bank to think about the RTWS not as a political right, the reluctance within the World Bank will remain on entering into their regular dialogues with countries from a rights perspective. Preference will be given to continue doing this from the angle of content.