

Media release

Date	MARCH 2019
Source	The Association for Water and Rural Development (AWARD)
Context	Human rights day 21 March 2019 A special focus on water as a human right in South Africa
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About AWARD

AWARD is a non-profit organisation specializing in participatory, research-based project implementation. Their work addresses issues of sustainability, inequity and poverty by building natural-resource management competence and supporting sustainable livelihoods. One of their current projects, supported by USAID, focuses on the Olifants River and the way in which people living in South Africa and Mozambique depend on the Olifants and its contributing waterways. It aims to improve water security and resource management in support of the healthy ecosystems to sustain livelihoods and resilient economic development in the catchment.

About USAID RESILIM O

USAID: RESILIM-O focuses on the Olifants River Basin and the way in which people living in South Africa and Mozambique depend on the Olifants and its contributing waterways. It aims to improve water security and resource management in support of the healthy ecosystems that support livelihoods and resilient economic development in the catchment. The 5-year program, involving the South African and Mozambican portions of the Olifants catchment, is being implemented by the Association for Water and Rural Development (AWARD) and is funded by USAID Southern Africa.



USAID | **SOUTHERN AFRICA**
FROM THE AMERICAN PEOPLE



Human rights and the right to water in South Africa: what does it mean?

South Africa has placed the right to sufficient water as a Constitutional right in its Bill of Rights. But what does that mean? It places a *legal obligation* on the government to ensure that all people living in South Africa have the right to *sufficient* water. The Constitution does not say very much about the obligation, it leaves that to be defined and qualified in other legal instruments. We also need to recognise that the right to water is one of many other rights such as a right to education, freedom of speech, shelter and so on.

In order to comply with its constitutional mandate the government enacts policies, laws and strategies, and establishes institutions to manage water resources and deliver water services under the obligation. In particular the National Water Act (NWA, 1998) and the Water Services Act (WSA, 1997) are the two main pieces of legislation to ensure that we achieve the right to water.

However, it is important to remember that human rights approaches have not always been around. In a nutshell the approach has its roots in the rights movement that started after the Second World War and provides a way of setting priorities based on principles drawn from social and legal perspectives. The human right to water is even more recent.

Worth noting is the confusion that often exists between a *human rights approach* and a *rights approach*. This stems in part from the frequent reference to them interchangeably, but they are very different. The main confusion surfaces as a right to use water in terms of an institutional or legislative authorization such as a licence or, as some say, a "water right". However this is incorrect in terms of the National Water Act (NWA) where the only right to water is defined as the RESERVE, all other water use must be under an authorisation of some sort. This authorisation is subject to "terms and conditions" which means it is not a human right.

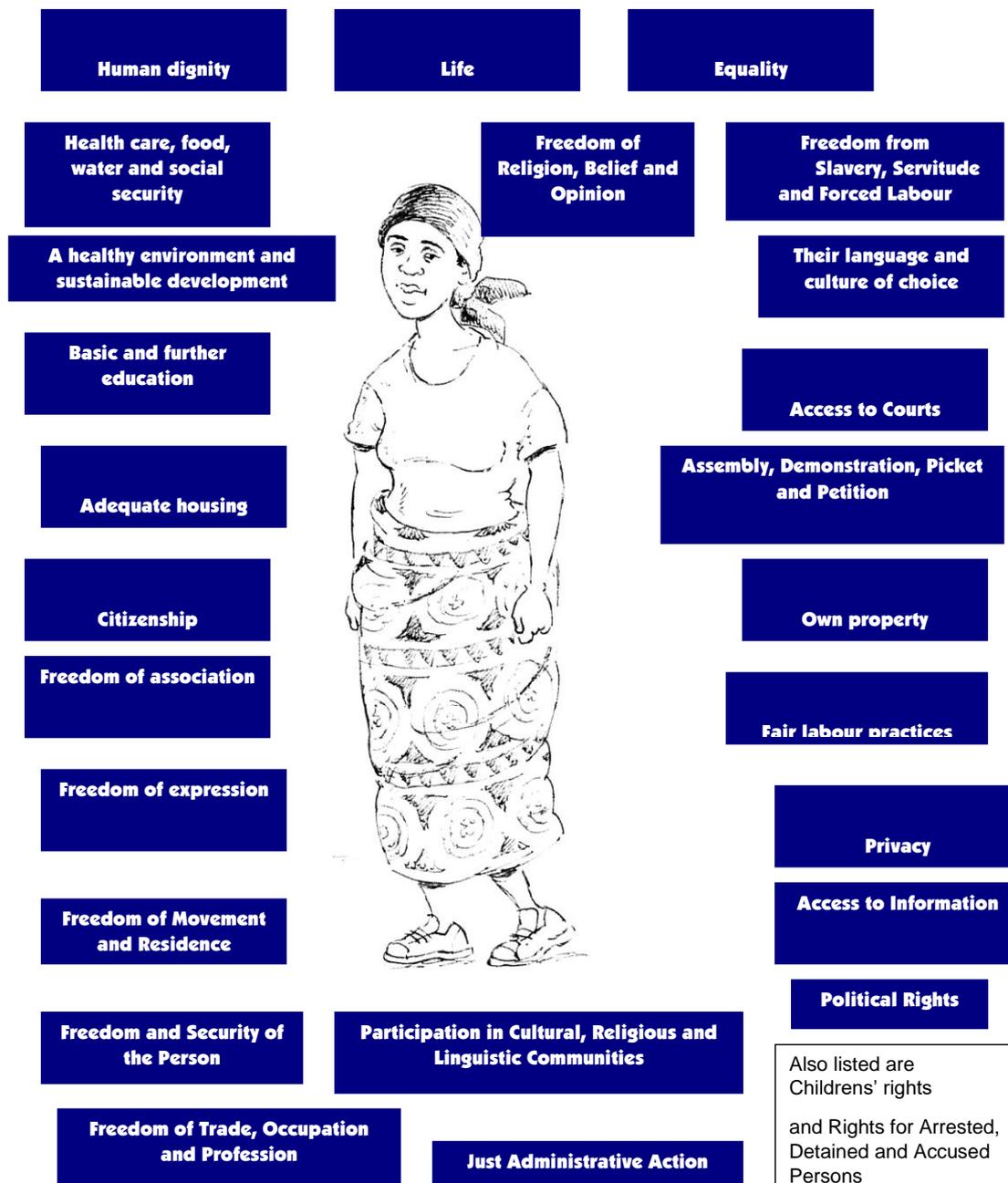
As the only right to water in South Africa the RESERVE has two components. According to South African law the Reserve is defined as the quantity and quality of water required to protect basic human needs and to protect aquatic ecosystems so as to secure ecologically sustainable development and utilization. These components are known as the Basic Human Needs Reserve and the Ecological Reserve. It means that the government has an obligation to ensure that there is enough water for basic needs such as drinking, cooking and cleaning, and is given a figure of 25 litres per person per day. The Ecological Reserve is defined by scientists and adopted by the Minister of Water Affairs and is regarded as the amount of water that needs to remain in a river, or water resource, in order to ensure the health of that ecosystem is sustained over the long run.

It is important to note that all rights are generally subject to *progressive realization* (moving *forwards* from the *status quo*) which means that government must demonstrate that it is working towards an improved situation with respect to achieving the rights over time. This includes, among other things, to ensure that adequate monitoring mechanisms are in place, the establishment of realistic benchmarks, and to ensure that the basic minimum of water, as discussed above, is met as a priority.

We all have an important role to play in putting a rights approach in place. Ward councillors, government officials, and citizens should work towards monitoring human rights violations and find ways, alongside government structures, for making sure we all have a right to water!



KNOW YOUR HUAMN RIGHTS IN SOUTH AFRICA...





We generally accept the amount of 25 litres per person per day as the South African standard for meeting the obligation to water as a human right.

Our Constitution says...

Health care, food, water and social security

27. (1) Everyone has the right to have access to

- a. health care services, including reproductive health care;
- b. sufficient food and water; and
- c. social security, including, if they are unable to support themselves : dependants, appropriate social assistance.

(2) The state must take reasonable legislative and other measures, within resources, to achieve the progressive realisation of each of these rights.

(3) No one may be refused emergency medical treatment.

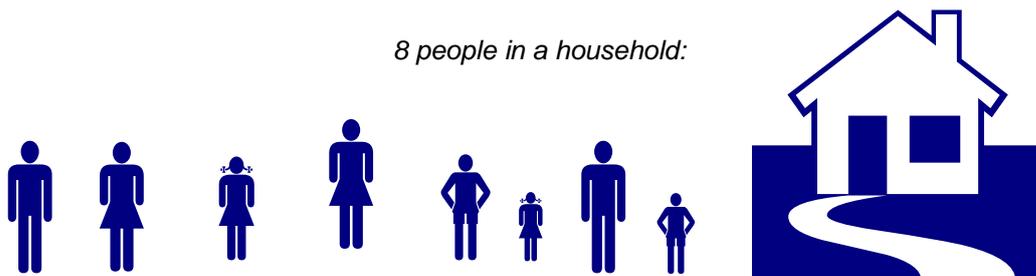




What do we mean by Free Basic Water?

Some local governments have taken the figure of 25 litres per person per day and averaged it out for households to help them to better plan and implement delivery of water. With an average of 8 people per household, and an average of 30 days in a month, they have calculated that households need to be supplied with **6000 litres of free basic water a month**.

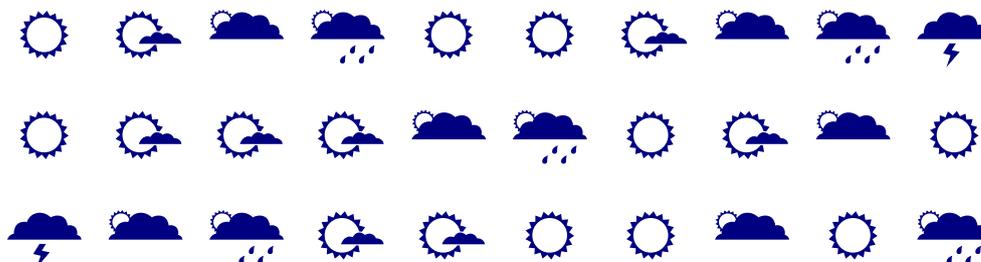
8 people in a household:



*Who need 25 litres **each** every day:*



For a month of 30 days:



Gives us 6000 litres per household per month

$$\begin{array}{ccccccc} 8 & \times & 25 & \times & 30 & = & 6000 \\ \text{(people)} & & \text{(litres)} & & \text{(days)} & & \text{(litres per} \\ & & & & & & \text{household} \\ & & & & & & \text{per month)} \end{array}$$

