# Responses to the questionnaire on Service regulation and human rights to water and sanitation.

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**1. Please describe the role and responsibilities of your organization in the water and sanitation sector.**

Amrta Institute’s role in water and sanitation sector include: 1) increasing public awareness in sustainable water management, 2) formulating and implementing strategies to overcome water scarcity through water conservation, 3) advocating for human rights to safe drinking water and sanitation.

Its main activities are research and advocacy on water resources. One of its most important achievements is its involvement in the annulment of water resources law, in order to improve access to clean water, where its research studies made the cases for the plaintiffs. Another important achievement is to co-organize civil society movements in Jakarta to improve good and reliable water services, ranging from women, legal aid, anti-corruption, environment, youth, and labor organizations. Amrta Institute for Water Literacy is unique because it is the only organization in Indonesia that focuses on water issues, making its expertise on water issues crucial.

**2. How can a regulatory framework (e.g., legislative, institutional, policy) and bodies contribute to the realisation of the human rights to water and sanitation? Please provide examples.**

Regulatory framework and bodies contribute by, first, regulating water allocation. Water resources are needed both for commercial purposes by industries and domestic basic needs by families. For example, in Indonesia’s province of Yogyakarta, regulatory framework and bodies should guarantee every resident’s right to safe drinking water among the exploitation of water resources by hotels and apartments.

Second, to reallocate income from water resources for sustainable water management. For example, in water-rich areas such as Sukabumi and Klaten Regency, regulatory framework and body should be able to proportionally obtain income from multinational companies exploiting the water, and use the income for programs related with improving the residents’ access to water and sanitation.

Third, to protect the water from privatization and market liberalization. In Indonesia’s capital city Jakarta, the state should be able to take control over privatized water services. The water tariff, quality and quantity, and other essential policies should guarantee every resident to be able to access the water services.

Third, to make water management accountable and transparent. Important water-related data, such as groundwater and surface water use should be open to the public.

**3. Are the contents and principles of the human rights to water and sanitation generally reflected in regulatory frameworks? How do you assess your country’s regulatory framework in this regard? Please provide examples of other countries if available.**

In Indonesia, the principles of human rights to water and sanitation were not reflected in regulatory frameworks. Indonesia’s annulled water law, which still generally applies today due to the lack of a sufficient replacement, undermines the state’s control over water resources and is inclined to water commercialization and market liberalization. In addition, it relieves the government from its responsibility “to take steps to the maximum of available resources to progressively realise the right”.

As a result, water resources in Indonesia have been exploited for commercial purposes with very little protection to individual’s right to water. Privatized water services enjoy liberal tariffs adjustments, making them unaffordable for the poor, while delivering substandard services. Multinational bottled water companies, hotels, and apartments extract groundwater massively while local communities suffer from difficulty to access to clean water.

**4. Please provide examples of situations where the lack of regulation, or inadequate regulation, in the water and sanitation sector could potentially lead to, or has actually led to, violations of the human rights to water and sanitation.**

In Jakarta, the loosely regulated privatized water services have caused half of the population left without access to water services. Tariff adjustments are virtually in private sector’s hands, causing the water unaffordable for the poor. The government does not have power over quality control that 40.000 complaints were recorded in a year for water outages. Residents have to obtain water from more expensive jerry cans water, public bathrooms, and drink from bottled water.

In Sukabumi and Klaten, which are chosen by multinational corporations for bottled water productions, local residents struggle to get access to clean water. The regulations available are barely able to allocate water proportionately. Especially in Sukabumi, families who live near groundwater extraction sites, have to carry water from often muddy water springs kilometers away from their home.

In Yogyakarta, the town well-known for its tourism, the growth of hotel and apartment buildings outrun the government’s ability to regulate groundwater use, the resources vastly used by this sector. Residents living nearby these hotels and apartments find their wells go dry. At the same time, the town’s substandard water services cannot provide sufficient access to clean water, also as a result of the absence of regulation requiring the government to develop water services.

**5. What are the main challenges or obstacles encountered when trying to incorporate contents and principles of the human rights to water and sanitation into regulatory frameworks?**

Particularly in Indonesia, the recurring obstacle in incorporating human rights to water into regulatory framework is the view that it will harm so-called investment climate. Indonesian central government’s response to a citizen lawsuit against privatized water services in Jakarta is the easiest example. The residents of Jakarta are suing the government for negligence, and demanding the government to take over the failed private water operators. However, the government refuses to concede because it worries the lawsuit will become a harming precedence of investment climate in Indonesia.

Similar rationale is often used by the government to counter this organization’s effort to advocate for improvement in groundwater regulation. More proportionate taxation in water sector, for instance, which this organization deems important to develop access to clean water, is negatively viewed as a threat to business growth.

**6. Please provide specific examples of good practices where a human rights-compliant regulatory framework has led to the progressive realisation of the human rights to water and sanitation.**

In Surabaya, the second-largest city in Indonesia, the water utility is able to provide access to clean water for almost all of its residents. The water utility owes much of its success to the regulatory framework. Surabaya city council deliberately sets the water tariff low—significantly lower compared to Jakarta’s water tariffs—making the service affordable to all residents. In addition, for a sustainable water use, the city council prohibits the use of groundwater and arranges the transition from groundwater to piped water services that entirely use surface water as raw material. The willingness to empower water services, which most municipalities in Indonesia are lacking, has significantly improve the realization of human rights to water in Surabaya.

**7. Non-State actors have the responsibility to respect the human rights to water and sanitation and to exercise human rights due diligence in their operations. How should a regulatory framework reflect this responsibility? Please provide examples.**

Non-state actors must be specifically obligated by the law to exercise human rights due diligence in their operation. For example, bottled water companies are required to comprehensively assess the risk of their business and the impact of it to human rights fulfillment, make a report and do it with commitment. The assessment should involve independent experts and the results should be disseminated to the public. If violations occur, bottled water companies should immediately initiate a remediation according to the situation. In Sukabumi, for instance, improvement to access to clean water for local communities is highly needed.

If bottled water companies fail to comply with the regulation, the government should use available instruments as sanctions. The strongest instrument would be to review the water use licenses, such the groundwater use license (SIPA).

**8. Which model of regulatory mechanism would facilitate stronger compliance human rights standards by service providers? Why? What are advantages and disadvantage of an independent and autonomous regulatory body?**

In Indonesian context, the main advantage of an independent regulatory body will be the opportunity to make a team that consists of specialized and highly qualified personnel. At the moment, water management in Indonesia is dominated by bureaucratic structure, which tends to maintain the status quo. An independent regulatory body can act as checks and balances.

The disadvantage of independent regulatory body is usually related with its lack of coercive power. It cannot oblige both state or non-state actors to implement more progressive approaches in water management.

**9. What mechanisms should be in place to ensure that the voice of persons and communities in vulnerable situations is heard and their needs are taken into consideration in the regulation of water and sanitation services? Please provide positive and negative examples.**

The government’s transparency is a prerequisite. Indonesia has already had a public information law requiring the government to be transparent. However, this organization’s efforts to request water-related data are often fruitless. The mechanism lacks coercive power and is often at odds with other regulatory frameworks.

In water supply management, the voice of the communities can be heard if their representatives are involved in the executive decision making, such as for making policies related to the tariffs, investment priorities, and water quality monitoring. Residents forum on water supply have been generally organized in Indonesian municipalities but mostly result in mere formality.

Vulnerable communities who face water scarcity caused by the private sector operations should be heard through a multi-party talks between stakeholders. This organization has been facilitating this type of forum attended by representatives from the affected communities, bottled water companies, the government, and experts. The main objective of the talks is to ensure that the private sector operates according to the law, such as the limitations of water extraction and the private sector’s responsibility to allocate some of the water they extract to local communities.

**10. What measures could be envisaged in a regulatory framework to promote transparency and tackle corruption in the water and sanitation sector?**

In Indonesia, the Public Information Law should be implemented rigorously. Public agencies related to water management should be ready to disclose information in water sector, such as data related to groundwater and surface water use. Based on this organization’s experience in requesting water-related data, public agencies often use water-related regulations that contradict the public information law. For example, the request to open groundwater use data was declined because other regulations protect the data. It is necessary that laws and regulations in water sector should be particularly clear in encouraging transparency in water management sector.