

CHRGJ Expands its Focus on the Right to Water

During the 2007-08 academic year, the International Human Rights Clinic at NYU School of Law's CHRGJ took on several key projects aimed at expanding its focus on economic, social, and cultural rights, with particular emphasis on the right to water as a basic human right. The projects benefitted richly from close collaborations with partner organizations and engaged a broad range of methodologies. Some highlights include:

April 2008: Groundbreaking Win in Right to Water Case in South Africa

In April 2008, the Center for Human Rights and Global Justice proudly announced a major victory in a right to water case that challenged the installation and functioning of pre-paid water meters in Johannesburg, South Africa. The case benefited from work completed by NYU School of Law's International Human Rights Clinic students Catherine Sweetser, Kabir Duggal, and Katie Stehle (2007-08 Clinic) and Roni Amit and Gerhard Thallinger (2006-07 Clinic), all of whom were supervised by Professor Margaret Satterthwaite. The Clinic assisted the Geneva-based Centre on Housing Rights and Evictions (COHRE) with the preparation of a third-party submission (*amicus curiae*) in a case brought by the Centre for Applied Legal Studies against the City of Johannesburg, Johannesburg Water, and the Department of Water Affairs. The Legal Resources Centre represented COHRE in the matter and argued on its behalf.

On April 30, 2008, in *Mazibuko v. City of Johannesburg*, the Court ruled that the City of Johannesburg's practice of forced installation of pre-paid water meters in Phiri, Soweto, is unconstitutional and directed the city to provide residents of Phiri with the option of a normal metered water supply. The judgment further declared Johannesburg's water policy to be discriminatory, given the fact that people in low-income—and historically black—townships are required to pay for water in advance, while those in wealthy, historically white suburbs are entitled to water on credit and given the option to negotiate payment with the City when they are late on their bills.

The Court also ordered the City to provide residents of Phiri with 50 litres of free water per person per day. This is an increase from the current allocation whereby each household (on average containing 16 persons) is only provided with 200 litres per day. The court noted that 25 litres per person is insufficient, especially for people suffering from HIV/AIDS. The Court also noted that the City had the available water and financial resources to provide 50 litres per person per day, including through the use of funds provided by the national government for water provision, which the City had thus far chosen not to use for the benefit of the poor.

This judgment affirmed the growing recognition that access to clean water is a fundamental human right—inextricably related to the rights to food, health, and housing—and drew on local, national, and international legal principles such as the right of children to grow up with proper care and shelter and the overarching concept of human dignity. It further affirmed that without potable water, people cannot live, nor can they grow or cook staple foods, clean their homes, enjoy adequate sanitation, bathe, properly care for their children, or function normally and with dignity. Thus, it found that a deprivation of water simultaneously reduces the realization of other social and economic rights.

With this judgment, South Africa took a vital step toward recognizing the need to proactively promote the rights of its most vulnerable populations to basic life-sustaining resources. The case also set an

important precedent by contributing to domestic and international legal jurisprudence on the right to water as a basic human right.

June 2008: Launch of Report on Right to Water in Haiti

The success of the case in South Africa gave a boost to the Haiti Water Rights Project, on which the Clinic partnered extensively with Zanmi Lasante, Partners in Health, and the Robert F. Kennedy Memorial Center for Human Rights. The goal of the Haiti Water Rights Project was to contribute to a change in policy so that international financial institutions (IFIs), national governments and other entities would be compelled to respect the full range of human rights—including civil, political, economic and social—for people impacted by development projects. The Project aimed to set a precedent for holding institutions accountable for human rights violations caused by development initiatives.

In June 2008, the groups jointly released their groundbreaking report, “Wòch nan Soley: The Denial of the Right to Water in Haiti.” The 87-page report—which combines health and water data gathered on the ground in Haiti, legal analysis, and discussion of the historical context—presents the findings of a joint project conducted by the groups, who worked together to research, author, and release it. The groups used human rights and public health methodologies to assess the right to water in Haiti by surveying community members, testing water sources, and meeting with community leaders and government officials.

One of the report’s main findings is of an undeniable link between the international community’s political interference and the intolerably poor state of potable water in Haiti. Using documents obtained by the RFK Center through a Freedom of Information Act lawsuit against the U.S. Treasury Department, the report exposes the U.S. government’s role in blocking the disbursement of millions of dollars in loans that would have had life-saving consequences for the Haitian people. The loans, which the Inter-American Development Bank (IDB) approved in 1998 for urgently needed water and sanitation projects in Haiti, were derailed in 2001 by politically-motivated, behind-the-scenes interventions on behalf of the United States and other members of the international community.

The Haiti Water Rights Project continues to seek accountability for the devastating consequences of the failure—extensively documented in the report—of the Inter-Development Bank (IDB) to disburse approximately \$54 million in loans for water and sanitation improvements in Haiti.

RESOURCES

South Africa

- To read the amicus brief in *Mazibuko v. City of Johannesburg*, click [HERE](#)
- For the judgment in *Mazibuko v. City of Johannesburg*, click [HERE](#)
- For a summary and analysis of the *Mazibuko* judgement prepared by COHRE, click [HERE](#)
- For more information about the organization that launched the *Mazibuko* suit, click [HERE](#)

Haiti

- For the full Haiti Report, click [HERE](#)