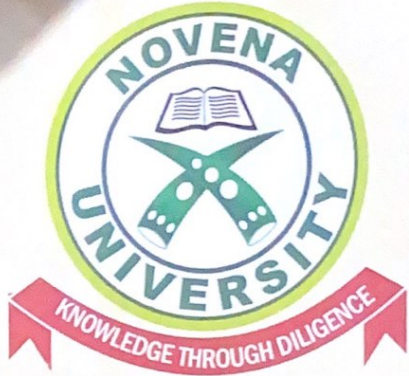




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Adopting an International Human Rights Standard on Access to Water In Nigeria Reflections from South Africa

OL Niyi-Gafar*

ABSTRACT

Under International human rights law, water is a human right. Guidelines have been laid out for consideration towards ensuring a progressive realisation of access to water. South Africa has embarked on an enviable approach towards a progressive realisation of access to water. Nigeria on the other hand has struggled towards ensuring the same for Nigerian citizens. This paper highlights the international law provisions and guidelines on access to water and sets out reflections from South Africa. It recommends that Nigeria should consider an adoption of some of these guidelines towards ensuring access to water for Nigerian citizens.

1. INTRODUCTION

Water is the most essential requirement for all living beings apart from air and it is impossible to live without it. Due to its great abundance, water is generally a very inexpensive resource. However, the availability, accessibility, sufficiency and quality of water for domestic use in Africa in general are worrisome to say the least. Nigeria is endowed with water resources. Rural communities' source for their water from rivers and streams while in urban areas those who can afford to drill boreholes and wells for their domestic water and many more have resolved to buying water for their domestic use. The modern use of water is multifarious, exhaustive and extensive. Perhaps this is the reason why water for domestic use remains inaccessible and inadequate.

One of the challenges of access to water in Nigeria is found in the scanty literature available in this regards especially with regards to the law. Much has been said of water as it relates to its availability and accessibility, yet its core relevance as a core human right is still on the back foot in Nigeria.

Scholarly writings on access to water are in abundance in South Africa. Perhaps this is one of the reasons South Africa is improving in the area of access to water generally for its citizens. Furthermore, South Africa has taken positive steps by constitutionally guaranteeing the right to water.⁴⁵¹ The South African Constitution provides that "everyone has the right to have access to sufficient water".⁴⁵² This provision of the constitution has encouraged even the poor to ask for their right to water and to demand a fulfilment of this right.

According to Winkler, water is a prime necessity for life and it is one resource which makes possible the development of all others⁴⁵³. Botkin & Keller have also analysed and calculated the quantity of water available for human use which would include agriculture, industrial⁴⁵⁴ etc. they stated that "...the amount of water for which people, plants and animals on earth compete is

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⁴⁵¹ See Section 27 of the Constitution of the Federal Republic of South Africa 1996. Hereafter 1996 Constitution.

⁴⁵² Section 27(1) (b)⁴⁵²

⁴⁵³ Winkler R.C, "water conservation" Geller E.S. Winett R.A. and Everett P.B, *preserving the environment*(Pergamon press incorporated, USA 1982)

⁴⁵⁴ Botkin D. B and Keller E.A, *Environmental Science. Earth As a Living Planet* (John Wiley And Sons, Incorporated, Canada 1998).

much less than 1% of the total⁴⁵⁵. None has however stated the quantity available for human consumption as potable water.⁴⁵⁶ Several International Law instruments have recognised the importance of water and as such have recognised it as a right. Kok and Langford have affirmed that the right to water is "an indispensable element of other rights, particularly the right to adequate food or nutrition, to health and a clean and/or healthy environment and water conservation"⁴⁵⁷.

The Committee on the Economic, Social and Cultural Rights adopted its General Comment no 15 on the right to water.⁴⁵⁸ The General Comment is to the effect that everyone has a right to sufficient, safe acceptable, physically accessible and affordable water for personal and domestic use. Regional declarations too have recognised the right to water. In the Abuja (Nigeria) declaration, for example, which was adopted at the first Africa-South America Summit in 2006, Heads of state and government declared that they will promote the rights of their citizens to have access to clean and safe water in their respective jurisdictions⁴⁵⁹.

Although these declarations are not legally binding, it reflects a consensus and a political statement of intent and importance of recognizing and realising the right to water. Other international human rights treaties entailing specific obligations related to access to safe drinking water include the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), adopted in 1979 (Article 14) and the Convention on the Rights of the Child (CRC), adopted in 1989 (Article 24 and 27(3)). Many Constitutions contain explicit references to the right to water, some of which are Bolivia, the Democratic Republic of Congo and South Africa. Other Constitutions contain a general responsibility on the part of state to ensure access to water⁴⁶⁰. Nigeria falls under the latter.

Atsegbua *et al* have noted that the Nigerian Government has entered into a number of treaties and put in place pieces of national legislation to prevent water pollution i.e. the promulgation of the Water Resources Act (1993) no 101⁴⁶¹. This however is not the same as providing for potable water or making it a fundamental human right which is one of the core contributions of this research.

The principle of universality of human rights is the cornerstone of international human rights law. This principle, as first emphasized in the Universal Declaration on Human Rights in 1948, has been reiterated in numerous international human rights conventions, declarations, and resolutions. The 1993 Vienna World Conference on Human Rights, for example, noted that it is the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems.

⁴⁵⁵ page 393 Botkin D. B and Keller E.A, *Environmental Science. Earth as a Living Planet* (John Wiley And Sons Incorporated, Canada 1998).

⁴⁵⁶ Dictionaries and web definitions have defined Potable water as drinking water. the WHO/UNICEF Joint Monitoring Programme (JMP) has defined drinking water as water for ingestion, basic personal and domestic hygiene and cooking. This is found at www.who.int/water_sanitation_health/mdg1/en/ accessed 3 March 2014.

⁴⁵⁷ Kok A. and Langford M, *The Right to Water*

⁴⁵⁸ General Comment no 15 'The right to water' <http://www.unhcr.org/refworld/docid/4538838d11.html> accessed 22 February 2014

⁴⁵⁹ <http://www.iss.co.za/uploads/AFRISOUTDECL.PDF> see paragraph VI, no. 18 and 19 accessed 3 March 2014

⁴⁶⁰ Right to water and Sanitation found at <http://www.womenforwater.org/member/pagina.php?themaID=79> accessed 10 March 2015

⁴⁶¹ Atsegbua, L., Akpotaire V., Dimowo, F., *Environmental Law in Nigeria Theory and Practice*, (Ababa Press Ltd Lagos, Nigeria 2004).

Since the publication of General Comment 15 in November 2002, there has been an increase in the number of states recognising the right to water as a human right⁴⁶². Some governments have adopted a participatory process to review its legislation and policies, and improve its legal and policy framework, like South Africa and Ghana⁴⁶³.

Across Africa, there is concern and action. Many African countries such as South Africa, Mozambique, Botswana and Swaziland have undertaken combined international water resource management plans. The African Ministers' Council on Water (AMCOW) was founded in Nigeria in 2002 to handle the problem of access to potable water and sanitation. The Rural Water Supply Initiative (RWSSI), which was implemented by the African Development Bank (AfDB), aims at providing 80% of the rural African population with drinking water and sanitation by 2015. It is interesting however to know that with all these conferences, summits and declarations the proposed water bill in Nigeria has still not been passed into Law.

2. INTERNATIONAL AND REGIONAL LAWS

The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly on the 10th of December 1948. This was the first declaration which spelt out the basic rights that all human beings should enjoy civil, political economic social and cultural rights. These rights have been accepted as fundamental human rights which should be respected and protected.

The international human rights law are laws laid down by the international bill of human rights⁴⁶⁴, which states are become bound to by becoming parties to such treaties. Once a state has ratified International human rights treaties and the government of such a state has adopted domestic measures and legislations compatible with it, then they are duty bound.

Over the years, international law instruments that have explicitly mentioned access/right to water are the following:

Committee on the Economic Social and Cultural Rights

General Comment no 15 which is an authoritative and extensive interpretation of the right to water was adopted by the UN Committee on Economic, Social and Cultural Rights at its twenty-ninth session in November 2002. This Comment provides guidelines for states parties on the interpretation of the right to water under two articles of the International Covenant on Economic, Social and Cultural Rights⁴⁶⁵ (CESCR) – Article 11 (the right to an adequate standard of living) and Article 12 (the right to health) which includes potable water. The General Comment clarifies the normative content of the right to water by articulating the individual elements of the right,

⁴⁶² 'The right to water and sanitation' <http://www.righttowater.info/progress-so-far/national-legislation-on-the-right-to-water/> accessed 5 March 2015.

⁴⁶³ *ibid*

⁴⁶⁴ The Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), The Two Optional Protocols and the International Covenant on Economic Social and Cultural Rights (ICESCR) All These Form The International Bill of Rights.

⁴⁶⁵ International Covenant on Social and Economic Rights (ICESR) – is a multilateral treaty adopted by the United Nations General Assembly on the 16th of December 1966 and came into force from 3rd January 1976. Its parties are committed to working toward the granting of economic social and cultural rights to individuals including right to health, right to education and even the right to an adequate standard of living. As of July 2011, the Covenant had 160 parties.

- Respect the right to water by refraining from interfering directly or indirectly with the enjoyment of the right;
- Protect the right to water by preventing third parties from interfering in any way with enjoyment of the right to water; and
- Fulfil the right to water by adopting the necessary measures directed towards the full realization of this right.

The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. It further provides under article 14(2) (h) that state parties should ensure that rural women enjoy adequate living conditions, particularly in relations to housing, sanitation, electricity and water supply, transport and communications.

The Convention on the Rights of the Child (CRC)
This convention incorporates specific civil and political and economic, cultural and social rights of the child. It specifically focuses upon giving children a voice and representation. Article 24 states that children have the right to health, placing the obligation upon state parties to implement this right, especially through appropriate measures to combat disease and malnutrition, through the provision of adequate nutritious food and clean drinking water taking to consideration the dangers and risks of environmental pollution⁴⁶⁶. The Committee on the Rights of the Child has repeatedly clarified that the entitlement to an adequate standard of living provided for in Article 27 includes access to clean drinking water and latrines⁴⁶⁷.

Instruments have been adopted at regional levels to reflect or highlight the human rights concerns of the region and to provide specific mechanism for protection. These regional instruments as it relates to the protection of the right to (access to) water are discussed as follows:

1. The 1988 Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights under its article 10 stipulates that everyone has the right to health, meaning the enjoyment of the highest level of physical, mental and social wellbeing.
2. Article 14 of the 1990 African Charter on the Rights and Welfare of the Child confirms that every child has the right to enjoy the highest attainable state of physical, mental, and

⁴⁶⁷ See for example Paragraph 61 of the concluding observations of the committee of the rights of the child: Ethiopia which bothers on Standard of living. Under this paragraph, the committee states its concern on the number of children who do not enjoy the right to an adequate standard of living which included access to food, clean water, adequate housing and latrines. The subsequent paragraph recommended that in accordance with article 27 of the Convention that the state reinforce its efforts to provide support and material assistance and to guarantee the right of children to adequate standard of living. See United Nations Convention on the Rights of the Child, committee on the rights of the child forty-third session; consideration of reports submitted by states parties under Article 44 of the convention. CRC/C/ETH/CO/3 1 November, 2006.

spiritual health. It defines State obligations as pursuing the full realization of this right, including taking measures to ensure the provision of adequate nutrition and safe drinking water.

3. The 2001 European Charter on Water Resources which was adopted by the committee of Ministers of the Council of Europe, under Article 5 confirms that everyone has the right to a sufficient quantity of water for his or her basic needs.

The right to water is not explicitly defined in some of the regional covenants like 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, 1969 American Convention on Human Rights, but within these Covenants the right and respect to human life were provided for⁴⁶⁸ and since water is vital for human life, and both unsafe water and lack of sanitation are the world's biggest killers, the right to life cannot be ensured without the full recognition of these rights⁴⁶⁹.

It is a settled fact that international law has recognised the right to water under various conventions and treaties and it is also settled that certain regional laws have made provisions/pronouncement on water⁴⁷⁰. However not all nations, including Nigeria, have bothered adopting laws recognising a human right to (access) to water, let alone enforcing or implementing it.

The 1948 Universal Declaration on human rights was written, without the slightest idea that water would one day be a contentious issue. However, in 2010, it is not an exaggeration to say that the lack of access to clean water is one of the greatest human rights violations in the world. According to the United Nations, about 1.2 billion people live in areas of physical scarcity and another 500 million are approaching the same. Furthermore, one quarter of the world population face economic water shortage especially where countries lack the necessary infrastructure to take water from rivers and aquifers.⁴⁷¹ According to Barlow⁴⁷² every eight seconds a child dies of a waterborne disease. These deaths could have been prevented if their parents had money to pay for water. She also reiterated that a third of the world's population is suffering from water shortages. The United Nations estimates that by 2025, two-thirds of the population will be affected by water scarcities⁴⁷³. According to Red Cross, about 4 million people die each year from diseases associated with the lack of access to safe drinking water, inadequate sanitation and poor hygiene and some 4 thousand children die every day from these same associated disease⁴⁷⁴. Furthermore a new World Bank reports says that by 2030, global demand for water will exceed supply by more than 40%, a shocking prediction that foretells of terrible suffering unless urgent

⁴⁶⁸ Like the 1961 European Social Charter which states under article 11 that everyone has the right to health and also removal of causes of ill health.

⁴⁶⁹ The right to water and sanitation under regional human rights law found <http://www.righttowater.info/progress-so-far/timeline-2/> accessed 15 February 2015.

⁴⁷⁰ The European Charter on Water Resources, 2001, The African Charter on the Rights and Welfare of the Child, 1990, The Convention on All Forms of Discrimination Against Women, The Geneva Conventions and their Additional Protocols (which especially recognise a right to drinking water e.g. Articles 20, 26, 29 and 46 Geneva convention III (1949) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)

⁴⁷¹ UN Water Scarcity I International Decade for Action Water for Life 2005-2015

⁴⁷² Maude Barlow (in an interview) Available at <http://www.foodandwaterwatch.org/maude-barlow/> Interviewed on CNN — see

<http://edition.cnn.com/2010/TECH/science/01/07/water.justice/index.html> accessed 15 July 2014.

⁴⁷³ *ibid*

⁴⁷⁴ Red Cross "water sanitation and hygiene", at <https://www.redcross.fi/about-red-cross/water-sanitation-and-hygiene> accessed 9 October 2018.

attention is paid to redressing this.⁴⁷⁵ According to Bucknall, in a press release, the global priorities of food security, renewable energy, and adaptation to climate change, public health and urbanisation cannot be addressed if water is not well managed⁴⁷⁶.

3 WATER LAW REFLECTIONS FROM SOUTH AFRICA

Laws surrounding access to water in South Africa are comprehensive and quite commendable.⁴⁷⁷ The basis of this comparative research is to find a solution to the problems of access to water in Nigeria, taking a cue from South Africa. The question one would ask is why South Africa when there are other countries? According to the World Health Organisation (WHO) and United Nations Children's Fund (UNICEF) eighty percent (80%) of African countries are off track for the sanitation and water Millennium Development Goal (MDG) target and Nigeria is one of these countries while South Africa is not⁴⁷⁸. Although South Africa is an arid land and its waters is gotten from Lesotho, the number of people having access to drinking water can in no way be compared to Nigeria which has almost half of its population without access to potable water⁴⁷⁹. According to the 1996 South African Constitution, government is established in three spheres: national, provincial, and municipal.⁴⁸⁰ The legislative and executive authorities of these three spheres of government are determined by the constitution. The Constitution under section 27(1) (b) states that "everyone has the right to have sufficient food and water". There are two major provisions aside the constitution which relates to the right to access to potable water in South Africa. These are the Water Services Act of 1997⁴⁸¹ and the National Water Act of 1998.

The Water Services Act (WSA) was adopted to provide for the rights of access to basic water⁴⁸² supply and sanitation services⁴⁸³. It further provides that water services institutions must take reasonable measures to realise these rights and that every water service authority must in its waters services development plan, provide for measures to realise these rights which are subject to the limitations provided for in the WSA⁴⁸⁴.

The NWA in its preamble states that water belongs to all people and the national government through the Minister of water affairs and forestry acts as the public trustee for the people.⁴⁸⁵ The Act ensures that the nations water resources are protected, used developed conserved managed and controlled in ways that meet the basic human needs of present and future generation. It also

⁴⁷⁵ "Utilities see water demand outstripping supply by 2030" 11 October 2012 at <http://www.ciumedia.com/index.php/latest-press-releases/item/783-utilities-see-water-demand-outstripping-supply-by-2030> accessed 9 October 2018

⁴⁷⁶ <http://www.circleofblue.org/waternews/2010/world/world-bank-report-endorses-integrated-approach-to-water-management/>

⁴⁷⁷ Jackie Dugard (2013) 'Urban Basic Services: realities rights and resistance' in M Langford, J Dugard, T Madlingozi and B Cousins (eds) 'Socio-economic rights in South Africa Symbols or substance? Cambridge University Press.

⁴⁷⁸ Progress on drinking water and sanitation 2012 update found at <http://www.unicef.org/media/files/JMPReport2012.pdf> accessed 11 March 2015.

⁴⁷⁹ The Minister for water resources Mrs. Ochekepe on the 22nd of March 2013(world water day) stated at a press conference that 80million Nigerians do not have access to potable water.

⁴⁸⁰ See section 40 (1) of the 1996 Constitution.

⁴⁸¹ No 108 of 1997.

⁴⁸² Section 1 Basic water supply has been defined by the WSA as "the prescribed minimum amount of water necessary for the supply of a sufficient quality of water to support life and personal hygiene". see section 1 of the WSA.

⁴⁸³ Section 3 (1) of the WSA of 1997

⁴⁸⁴ Section 3 (2,3 and 4)

⁴⁸⁵ Act 36 of 1998

has the duty to promote equitable access to water and to establish suitable institutions and ensure appropriate community rural and gender representation.⁴⁸⁶ South Africans as a result of the provision of the right to water and the constitutional guarantee have sought to ensure a fulfilment of their right to water. One notable case is the case of *Mazibuko v. City of Johannesburg* (also known as "the Phiri case").⁴⁸⁷ The case rose from the regular courts up to the constitutional court which is the highest court on constitutional matters. In South Africa there is a Free Basic Water Policy which aims at providing basic water for citizens especially those who are most hit by the problems of access to water. In this case, Free Basic Water (FBW) in the quantity of about 6,000 litres is provided for each household by the city of Johannesburg to the people in Phiri. The respondents in this case, installed prepaid meters as a cost recovery measure. These pre-paid meters are to the effect that water stops automatically and immediately the FBW or credit supply ends. The applicant in this case challenged the constitutionality and lawfulness of prepaid water meters as well as the sufficiency of FBW. The high court judge, Moroa Tsoka, ruled in the favour of the applicant finding that prepaid water system was unlawful and unconstitutional. The court granted applicants 50 litres of water per person per day as against the 6,000 litres per household per month which the respondents made provided for instead. On appeal by the respondents, the Supreme Court of Appeal granted 42 litres instead stating that the quantity for dignified human existence in compliance with section 27 of the constitution is 42 litres per person per day it further ruled that it was unlawful to install prepaid meters and to cut off FBW was unconstitutional. Still dissatisfied, the matter went to the Constitutional court which is the apex court to determine constitutional matters. The court (O'Reagan J) noted that it was the first time that the proper interpretation of section 27 (1) (b) of the Constitution will be raised. The Constitutional court after considering the two issues rose in the previous courts ruled that the city's FBW policy falls within reasonableness and was not in conflict with either section 27 of the constitution or with the national regulating bodies. The court also ruled that the installation of prepaid meters in Phiri was lawful and so the orders made by the two previous courts were set aside. Although the people of Phiri lost this case it does not mean that the right to water was not recognised. There are many other cases in South Africa which enforced the constitutional provision of the right to water. What the Mazibuko case did however was to interpret the meaning of the constitutional right to water and also show that the people had the right to participate and be heard on such issues.⁴⁸⁸

4 LEGAL ACCESS TO WATER IN NIGERIA⁴⁸⁹

Nigeria is a Federation situate on the West Coast of Africa, with a land area of about 924,000 sq. km. it is made up of 36 states, 776 local government areas and the Federal Capital Territory (FCT), Abuja⁴⁹⁰. Nigeria's climate can be described as semi-arid in the North and humid in the south. Although there is a temporal and spatial variation in water availability between the north and south in Nigeria, it is still considered to be abundantly blessed with water resources⁴⁹¹. The

⁴⁸⁶ section 2 (a) and (b) of the WSA of 1997

⁴⁸⁷ CCT39/09) 2009 ZACC 28

⁴⁸⁸ Cristy Clark 'Participation and the right to water- the Mazibuko case' (2010) 19 *Human Rights Defender* 12-14.

⁴⁸⁹ IA Irokalibe-Goldface 'Water Management in Federal and Federal type countries: Nigerian perspective' also found at http://www.forumfed.org/en/global/thematic/water_papers/Joe%20Goldface_en.pdf accessed 13 June 2014.

⁴⁹⁰ Section 3 (1), (4) and (6) of the 1999 Nigerian Constitution.

⁴⁹¹ O.B. Akpor and M. Muchie 2011. challenges in meeting the MDGs: The Nigerian Drinking Water Supply And Distribution Sector 4 *Journal of Environmental Science and Technology* 480-489 also at <http://scialert.net/abstract/?doi=jest.2011.480.489>

country is divided into eight hydrological areas drained mainly by the River Niger and River Benue and their numerous minor tributaries as well as by the Lake Chad and the Oguta Lake and rivers that discharge into them. However, a large percentage of the country's (then) estimated 160 million population does not have access to potable water.⁴⁹²

There are three tiers of government in Nigeria, which are Federal, State and local governments. These tiers of government share responsibility for water resource management.

At the Federal level the water laws are: Water Resources Act 1993, Minerals Act 1990, Nigerian Institute of Water Act (NIWA) 1997, and the River Basins Development Act (RBDA) 1990. The Water Resources Act is the main water law in Nigeria. This law does not ensure access to water as the provision it makes is the right to (take) water from rivers and streams is not the same as the human right to water which entails the right to an improved water source. The Nigerian Water Resources Act (WRA) provides that anyone:

- “(i) May take water without charge for his domestic purpose or for watering his livestock from any watercourse to which the public has free access; or
- (ii) may use water for the purpose of fishing or for navigation to the extent that such use is not inconsistent with any other law for the time being in force; or
- (iii) who has a statutory or customary right of occupancy to any land, may take and use water from the underground water source or if abutting on the bank of any watercourse, from that watercourse, without charge for domestic purposes, for watering livestock and for personal irrigation schemes.”⁴⁹³

The human right to water guarantees much more than a right to take water from a river or the permission to make boreholes for domestic water. A human right to water considers the accessibility (the distance of the water) as well as the quality of the water. Water for domestic use is expected to be of improved quality and surface waters are not considered as ‘improved quality.’

The Federal Ministry of Water Resources (FMWR) is the institution responsible for the application of the Water Resources Act. This Federal Government Agency is responsible for the formulation of policies as well as the provision for the platform for the availability of water for the use of the Nigerian citizens. The FMWR for example is responsible for formulating and coordinating national water policies, development and management of large water resources infrastructure, dam reservoirs, irrigation and water supply schemes.⁴⁹⁴

Section 20 of the Nigerian Constitution⁴⁹⁵ states that the “state shall protect and improve the environment, and safeguard the water, air and land, forest and wildlife of Nigeria.” Chapter 4 of the Constitution⁴⁹⁶ makes provision for the fundamental human rights of her citizens, beginning with the right to life. However, it does not in any section of this chapter provide for a right to (access to) potable water. All the constitution has provided for is that Nigerian water shall be safeguarded.

⁴⁹² Nigeria's population is currently estimated at over 190 million. See <http://population.gov.ng/> accessed 20 September 2018.

⁴⁹³ Section 2 WRA.

⁴⁹⁴ See Section 5 (a) (i) (ii) WRA.

⁴⁹⁵ Federal Republic of Nigeria, 1999, Chapter II

⁴⁹⁶ Sections 33 to 43

Apart from the areas of laws where there are no substantial law reforms the Nigerian government has not committed itself to guaranteeing access to water for its citizens as there has been a reduction in the budget on water. There has been a decrease of water and sanitation budget from 112 billion naira in 2010 to 62 billion naira in 2011 and 32 billion naira in 2012.⁴⁹⁷ For as long as this remains there can be no substantial improvement on access to water.

5. CONCLUSION

The lack of access to safe potable water for drinking, cooking and cleaning and other uses brings immeasurable hardship especially to women and children who usually suffer the burden of sourcing water for the whole family on a daily basis.

This study seeks to create water laws awareness and inform policy makers, NGOs, political lobbyists and policy makers about the need to institute access to potable water as an enforceable human right in Nigeria. Further, it will enrich the Nigerian laws and policies on the protection of people's access to potable water and habitable environment. These seem necessary as a lack of recognition of the importance of water and prioritising water for domestic use would continue to cause hardship for women as they try to find clean water for their families. Access to clean water is important for a number of reasons especially health. There is a need to review the Nigerian water laws in such a manner that it ensures access to water towards a progressive realisation.

The Nigerian government should consider other means of providing adequate water supply to its citizens such as considering water as a human right. The continued failure of access to potable water in Nigeria is due to the neglect of government to consider enacting sufficient and sustainable laws which ensure access to water as a human right. The Nigerian government has not committed itself fully to a realisation of an improved source of potable water to Nigerians. It is no longer sufficient to acknowledge the inadequacy of water supply to Nigerians;⁴⁹⁸ it is now necessary to recognise a human right to water in Nigeria.

⁴⁹⁷ Akpe Business Day published 30th March 2012 at <http://www.businessdayonline.com/NG/index.php/analysis/features/35265-president-promises-water-slashes-budget> also at <http://pulitzercenter.org/reporting/nigeria-water-sanitation-millennium-development-goals-budget-cuts-president-goodluck-jonathan> accessed 9 October 2013.

⁴⁹⁸ There are about 15 statutes on water resources in Nigeria. Akpabio and Ansa (2013) 4 *MJSS* 305. The most relevant to domestic water supply is the Water Resources Act and the River Basins Development Act. There also exists a proposed Water Bill which does not address the right to access to water.