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Water as a Human right, made easy!

An introduction to a rights-based
approach to water in the
Sand River Catchment



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Sand River Catchment

Report to the
Water Research Commission

by

**Association for Water and Rural Development
(AWARD)**

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The Save the Sand Project

The Save the Sand Project is a national pilot project exploring ways of implementing Integrated Catchment Management and Landcare principles within the catchment area of the Sand River. As a national pilot project, it has a responsibility to develop a vision, be innovative in its approaches, and provide documented lessons that can be shared. Its main goal is to address the rehabilitation and sustainability of the Sand River and its catchment in an integrated and comprehensive way.

Key principles of the Save the Sand Project:
Rehabilitation and sustainability

- Social upliftment and equity
- Economic growth
- Co-operative governance.

This workbook is part of the Save the Sand Project's work towards building public awareness, capacity and action around water and land management in the Sand River Catchment.

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Thanks also to Dennis Mtsweni and Vusi Dlamini for their work on the project.

What are human rights?

Human rights are the rights that each and every person in the world has, or should have, simply because they are human beings. We say that human rights are **inherent**. Inherent means something that we are born with and carry within us. No one and no other laws can take them away from us.

Human rights are based on respect for the **dignity** and **worth** of each person. They are the **basic, minimum** rights that we are all due as people, no matter who we are, and include civil, cultural, economic, political and social rights.



What do human rights include?

You are probably most used to hearing about human rights in relation to torture, slavery, discrimination and freedom of expression. However, basic human rights also include access to food, water and shelter, to a means of making an income, and to information and participation in government.

Once a right has been enshrined in a country's constitution, no government can legally deny this right. It is no different with regard to the **right to sufficient water** contained in the South African Constitution.



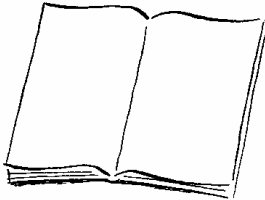
A short history of human rights...

The **Universal Declaration of Human Rights** was developed after the horrors of the Second World War, when all members of the United Nations agreed that never again should people be treated as inhumanely as the inmates of the Nazi concentration camps. Human rights became an important rallying call for the **American civil rights movement**, which sought equality for black Americans, and for the **women's rights movements** of the 1960s. In South Africa, the idea of human rights informed the development of the **Freedom Charter**, which in turn greatly influenced the development of the **Bill of Rights** which forms chapter 2 of our **Constitution**, and which sets out our rights and commits our government to fulfilling them.



Discuss and debate....

- Who is entitled to human rights? For each group below, discuss and decide.
 - Prisoners?
 - Forced migrants or refugees?
 - People under the age of 18?
 - Women and girls?
 - Legal immigrants?
 - Elderly people?
 - People with disabilities?
- What is the South African government doing about human rights? Think of the different government departments. Can you explain how they do or do not promote a human rights approach?
- Scan newspapers and listen to radio and TV. Find examples of reported 'human rights abuses'. What human rights do these revolve around? (You need not limit yourself to South African examples).



Read all about it!

- Universal Declaration of Human Rights (1948)
- The South African Bill of Rights (chapter 2 of our Constitution) (1996)

Notes and questions:

Where do ideas for a human rights approach come from?



What is a rights-based approach?

means informing people of their legal rights and entitlements and empowering them to achieve these rights. A rights-based approach puts people at the centre of development.

Approaching government and development from a human rights approach

The ideas that shape a human rights approach are part of an **international trend** to make sure that all people are treated with respect and dignity. Many of them can be seen in the legal obligations that different countries agree to meeting. Individual countries, as part of their constitution, policies and laws, then take the ideas further.

The **United Nations** is an organisation that is responsible for many of the international agreements that have a human rights focus. In the box below we have listed some examples of international agreements that have a human rights focus.

International agreements are often not easy to enforce, and many of the international conventions are **statements of intent** rather than binding laws. For this reason it is important in our human rights approach to closely examine what our own constitution and laws say. We will do this in the sections that follow, as well as in Workbook 2.

Some examples of international conventions and declarations

Global instruments

- Geneva Conventions and Protocols
- UN Charter
- Universal Declaration of Human Rights 1948 (not binding)
- 1966 Covenants (legally binding):
 - International Covenant on Civil and Political Rights
 - and the International Covenant on Economic, Social and Cultural Rights
- Declaration on the Right to Development
- Convention on the Elimination of All Forms of Discrimination Against Women (1979)
- Convention on the Rights of the Child (1989)

Global environmental instruments

- Stockholm Declaration
- Mar del Plata Action Plan (1977)
- Dublin Statement
- Agenda 21
- Millennium Declaration and Political Declaration of Johannesburg

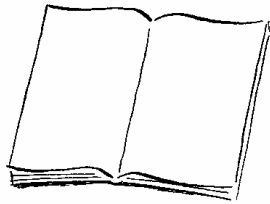




Discuss and debate....

The UN (and certain other international organisations like Amnesty International and Human Rights Watch) acts as an international **watchdog** on human rights, and may officially complain or even take action through its members when states violate human rights. For example, it frequently protested against South Africa's former regime, and was instrumental in imposing many forms of sanctions.

- To what extent do you think it is important to respect and reflect international rulings on human rights in your own practice?
- And how best do you think this can be done?



Read all about it!

- United Nations Millennium Declaration (2000)
- World Summit on Sustainable Development Plan of Implementation (2000)

Notes and questions:

Human rights and South African law

When democracy finally came to South Africa, one of the first and most important tasks of our new government was to develop a constitution that was acceptable to all South Africans.

Because of our history, many people felt strongly that never again should our human rights be abused. This was especially true as regards discrimination, and the favouring of one group of people above another.

South Africa therefore decided on a **rights-based approach** to its constitution. The very first statement of the constitution is:

The Republic of South Africa is one, sovereign, democratic state founded on the following values:

- ***Human dignity, the achievement of equality and the advancement of human rights and freedoms***
- *Non-racialism and non-sexism*
- *Supremacy of the constitution and the rule of law*
- *Universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.*

The Constitution then states that:

This Constitution is the supreme law of the Republic; law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled.

Our Bill of Rights



What is a Bill of Rights?

A Bill of Rights is a list of rights that are recognised as the basic rights upon which our laws and governance are based.

Chapter 2 of the South African Constitution, the **Bill of Rights**, is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.

Our bill of rights says that every human being is entitled to:

Human dignity

Life

Equality

**Health care, food,
water and social
security**

**Freedom of
Religion, Belief and
Opinion**

**Freedom from
Slavery, Servitude
and Forced Labour**

**A healthy environment and
sustainable development**

**Their language and
culture of choice**

**Basic and further
education**

Access to Courts

Adequate housing

**Assembly, Demonstration, Picket
and Petition**

Citizenship

Own property

**Freedom of
association**

Fair labour practices

Freedom of expression

Privacy

**Freedom of Movement
and Residence**

Access to Information

**Freedom and Security of
the Person**

**Participation in Cultural, Religious and
Linguistic Communities**

Political Rights

**Freedom of Trade, Occupation
and Profession**

Just Administrative Action

Also listed are
Childrens' rights
and Rights for Arrested,
Detained and Accused
Persons



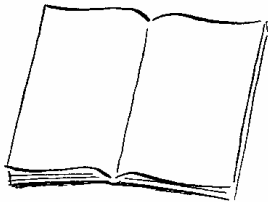


Discuss and debate....

- Look at the rights listed on page 8. Which of these rights is most important:
 - for you personally
 - for your community
 - for South Africa as a country?

Give reasons for your choices.

- Can you think of any examples from your area of ways in which one or more of these rights is being violated? Explain why you think a violation is occurring. What criteria are you using to justify your statement?



Read all about it!

- The Constitution of the Republic of South Africa (1996)

Notes and questions:

Water as a human right in South Africa



What does our constitution say about our rights to water?

The Constitution of South Africa has placed a *legal obligation* on the government to realise people's right to sufficient water. In order to do this, South Africa has developed policies, legislation, strategies, and institutions to manage water resources and deliver water services. Although access to water has been included in our Bill of Rights, few people working with water-related issues understand the implications of a human rights approach to water. We will look at these more closely in the sections that follows.

The Constitution of the Republic of South Africa states that “**everyone has the right to have access to... sufficient food and water**” (Article 27 (1) (b)).

Article 27(2) requires that South Africa takes “**reasonable legislative and other measures, within its available resources, to achieve the progressive realisation**” of the right to water.



But what does this really mean?

The question of how much water – or, for that matter, food – is “sufficient” is something that can be debated. At the moment this figure is set at the Reconstruction and Development Programme minimum of 25 litres of water per person per day, but this figure is not fixed forever. Part two of section 27 commits the government – at all levels – to working towards the goal of sufficient water for all.

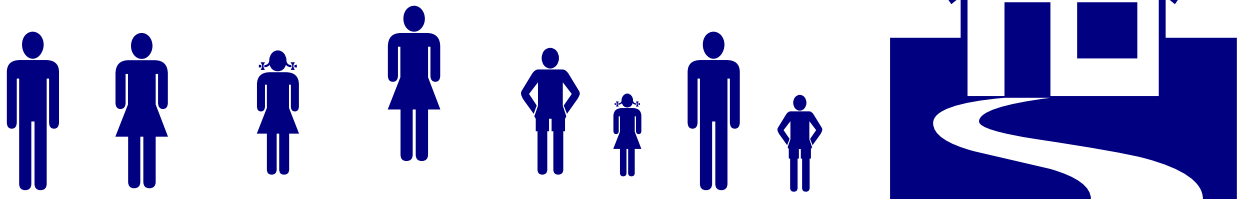
*I'm a human being
living in South Africa.
How much water am
I entitled to?*



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**.

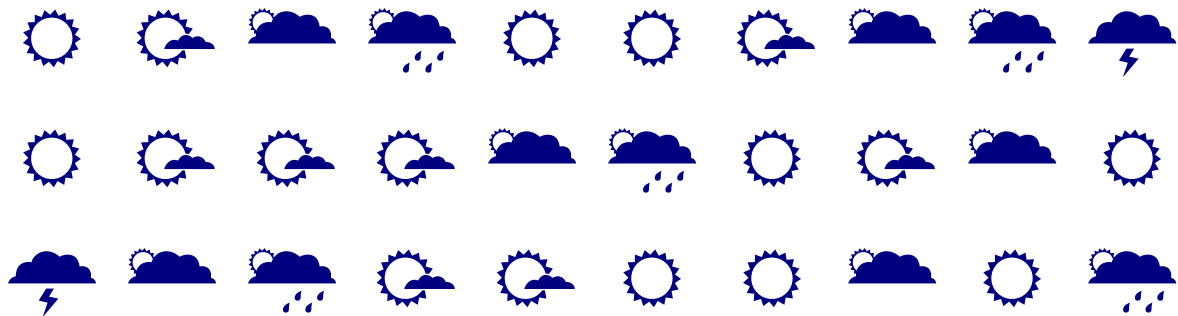
8 people in a household:



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



For a month of 30 days:



*Gives us **6000 litres per household per month***

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

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 and their dependants, appropriate social assistance.

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

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



Many of our other constitutional rights also depend on water. The right to live a dignified life can never be fulfilled unless all the basic necessities of life -work, food, drinking water, housing, health care, education and culture- are adequately and equitably available to everyone.

For example, the **right to life** depends on the availability of water. No one can survive without water. Unhealthy water is the cause of serious illnesses, such as diarrhoea, which kill over 2 million people worldwide each year.

The **right to sufficient food** means there needs to be enough water to raise crops or livestock. The **right to shelter** is linked to the availability and accessibility of water from people's homes.

But perhaps the most important right linked to the right to water is **the right to a healthy environment**. If our environment and our rivers are not managed properly, there is no way in which people's water needs can be met. The quantity of water can be affected by mismanagement of rivers, and the quality of water available can be affected by things like pollution and soil erosion.



Discuss and debate....

Our South African constitution states clearly that we have the right to 'sufficient' water. However, there is a lot of work to be done before we can realise this right. We are still working on clarifying what we mean by 'sufficient', and we need to investigate ways in which this water can be made available to people who need it.

- At a rough estimate, how much water do you use in one day?
- How much water do you consider to be 'sufficient' for a person for a day?
- What, in your opinion, are the main hindrances or blocks to people getting 'sufficient water'?
- Can you divide these into:
 - a. issues of management
 - b. issues of supply?

The South African government has a constitutional duty to work towards providing adequate water to all people within its borders.

- Do you know of any measures (laws, actions, projects or plans) that are working towards this goal?
- How is work towards this goal progressing in your ward?

Human rights apply to all human beings, no matter their social standing, wealth, age, gender or nationality.

- Are all people in your ward equally able to access water, or can you think of examples where certain groups have easier access than others?

Notes and questions:

Water and our environmental rights

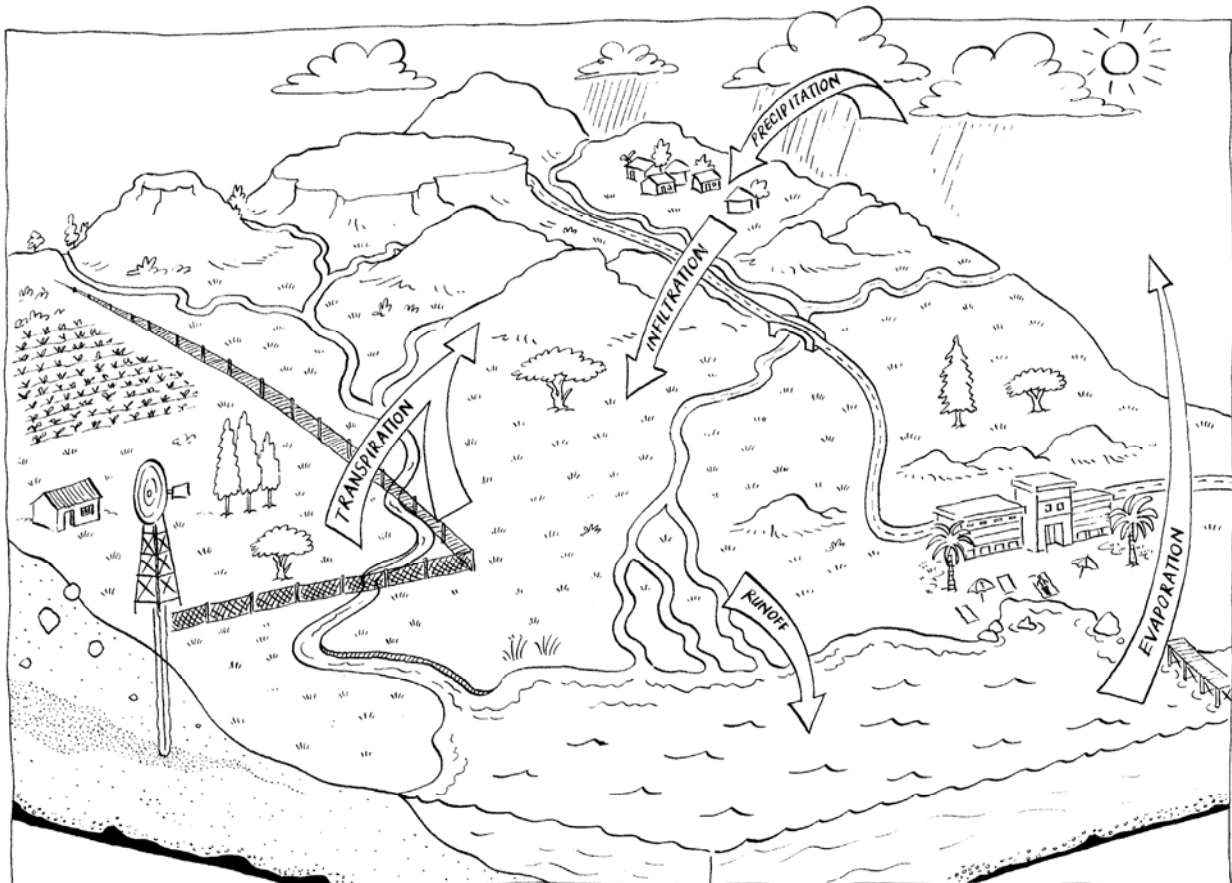
Our Constitution says...

Environment

24. Everyone has the right

- a. to an environment that is not harmful to their health or well-being; and
- b. to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that
- c.
 - i. prevent pollution and ecological degradation;
 - ii. promote conservation; and
 - iii. secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

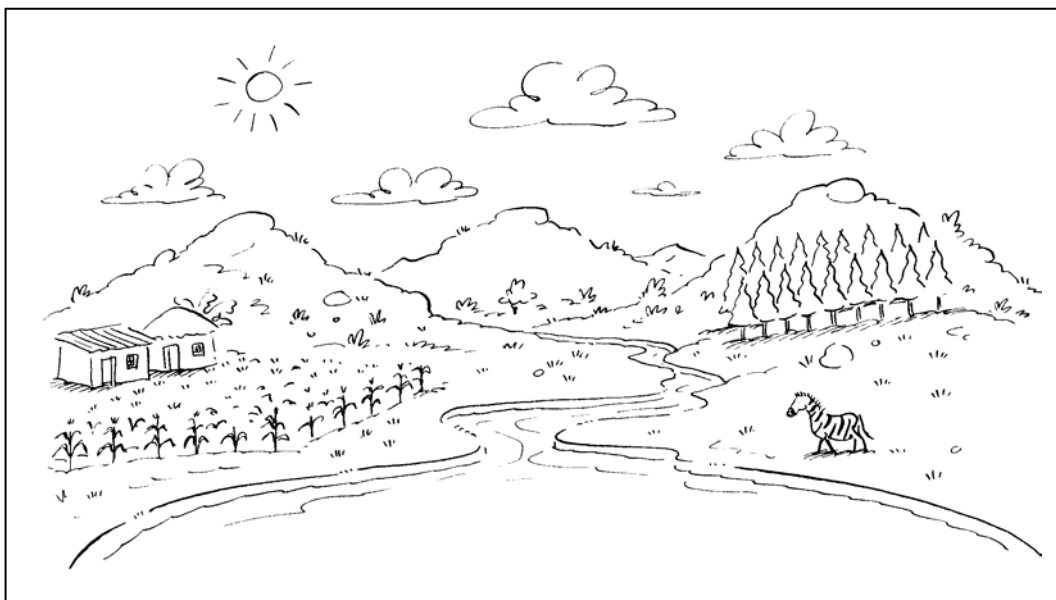
The Bill of Rights also declares that all human beings have a right to a healthy environment. Our right to a healthy environment cannot be separated from our right to enough water. Where does our water come from?



The water we depend on for our lives is provided by the environment we live in. The health of our environment affects both the **quantity** and the **quality** of water that is available to us. Without a healthy environment there will be no way that we can meet the basic water needs of people over the long term. Many parts of the **water cycle** need to be protected and monitored in order to ensure that we have enough water of a good enough quality to meet our basic and other water needs

The right to water and the right to a healthy environment are difficult to separate. Without sustainable ecological practices, the availability and quality of water is threatened. To maintain a safe and secure supply of water we need to manage our environment in a holistic way: including managing our rivers, and looking at our agricultural practices.

Without careful management of our environment, we will not be able to meet the water needs of people in South Africa. We need river systems that work properly in a healthy environment, and rivers that are clean and healthy, if we are to supply people with their basic human needs.



Who will protect the rights of the environment? Who will speak on its behalf?

A healthy environment lies at the base of our ability to provide people with their basic water needs.

It is important to remember and understand this, because while people have voices and can make loud and clear objections when their needs are not met, the environment has no voice of its own and can easily be neglected when there are pressing demands being made by human beings. However, if we neglect the environment we will soon find that we are in a worse position when it comes to fulfilling other human rights.



- Look at the picture of the water cycle on page 14. At which stage in the cycle do you access the water you need for your basic water needs?
- Can you think of any examples of ways in which changes in your environment have affected your supply of water, either in negative or positive ways?
- Whose responsibility is it to speak up on behalf of the environment?

Notes and questions:

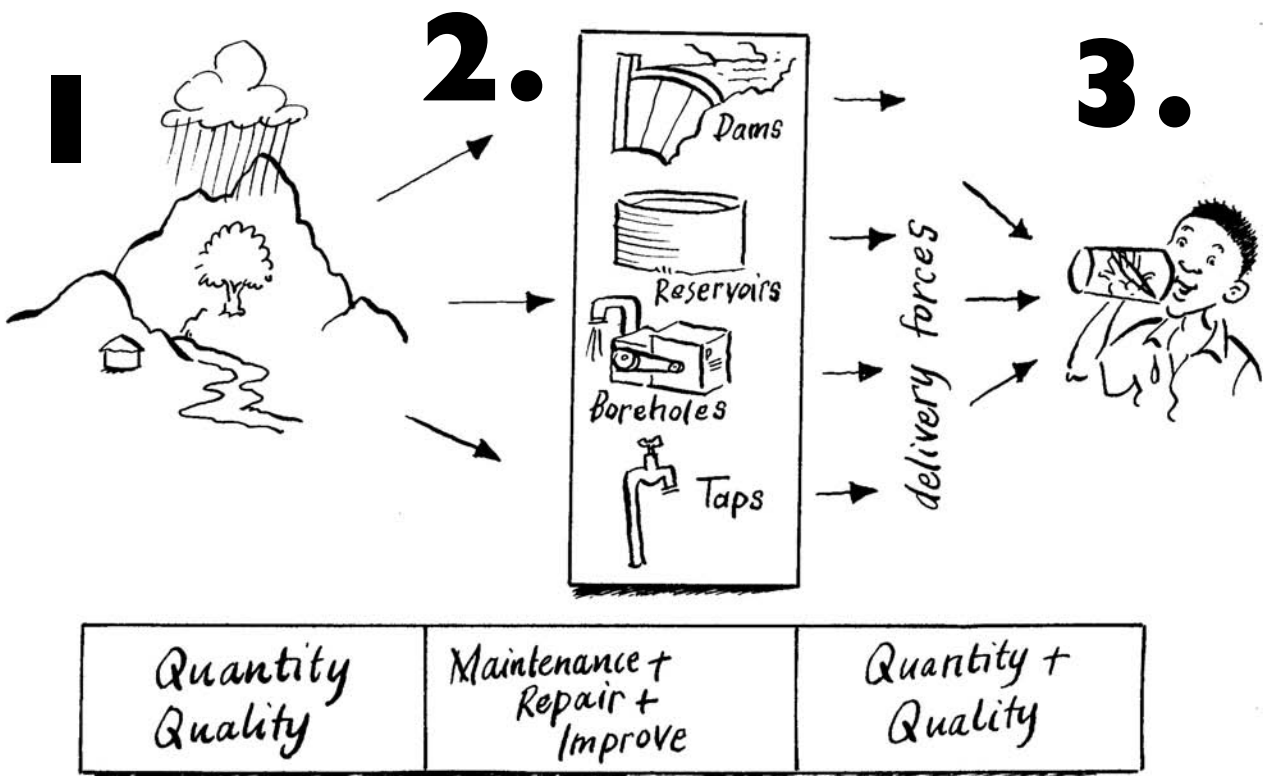
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Summary and recap

A healthy environment capable of supplying sufficient water of good quality....

Along with enough efficient infrastructure to enable delivery...

Means that it will be possible to fulfil people's rights to basic water.



1. What do we need to do to ensure that the resource and environment it depends on are kept healthy enough to meet our water needs?
2. How can we work towards ensuring that our infrastructure is adequate and efficient enough to deliver water to where it is needed?
3. How can we all contribute to ensuring that people's human rights to water are met?

