



A Survey of Efforts to Achieve Universal Access to Water and Sanitation in California

EXECUTIVE SUMMARY

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ACLU
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EXECUTIVE SUMMARY

IN 2010, the United Nations General Assembly recognized the human right to water and sanitation. Two years later, in 2012, California became the first state in the nation to enact legislation recognizing the human right to water (HRTW) for consumption, cooking, and sanitary purposes. The statute has served as the touchstone for drinking water and sanitation efforts in the state.

In this report, we review the efforts of state agencies and non-governmental stakeholders to advance implementation of HRTW. First, we summarize the legislative efforts that set the foundation for the adoption of HRTW in California. Second, we discuss the challenges facing residents of disadvantaged unincorporated communities, particularly considering California's recent drought. Third, we review the state's implementation of its statutory mandate and efforts by non-governmental stakeholders to advance HRTW, identifying gaps in advancing the right to water for sanitary purposes, and focusing on the need to invest in programs and funds to address this aspect of HRTW. Finally, we provide recommendations to tackle the existing and ongoing needs related to sanitation, with a focus on household-level infrastructure.

Disadvantaged unincorporated communities frequently lack the most basic features of a safe, healthy, sustainable neighborhood, such as potable drinking water and sewer systems.

CHALLENGES

We identified three major challenges impeding progress on achieving universal access to water and sanitation in California. First, while there is a need for improving access to water for drinking and sanitary purposes in each of California's 58 counties, low-income and farmworker communities bear the greatest burden. Second, a lack of reliable, comprehensive data is a major barrier to understanding the scope of, and resolving, problems related to sanitation. Finally, there are currently no government programs or funding to directly address household-level sanitation needs.

Disproportionate Burden on Low-Income and Farmworker Communities

HRTW has remained unrealized in every county in California, but low-income and farmworker communities have been especially burdened.

Disadvantaged unincorporated communities frequently lack the most basic features of a safe, healthy, sustainable neighborhood, such as potable drinking water and sewer systems.¹ These communities are also disproportionately affected by natural disasters. We document the struggles of residents in several of these communities to obtain water and to respond to sewage overflows that posed public health risks. In these cases, aging infrastructure and government neglect exacerbated an already dire situation. Persistent efforts by community members and advocates drew public and government attention to their plight, allowing them to secure financial assistance to improve their conditions. But their stories are all too familiar in unincorporated areas, and there are undoubtedly many residents across the state whose stories remain untold.

Lack of Reliable Data

There is currently no comprehensive quantification of California's sanitation infrastructure needs. In 2013, the U.S. Environmental Protection Agency estimated California would need \$26.2 billion over the next 20 years to meet the needed capital costs of publicly-owned treatment works for wastewater treatment, sewer collection and overflow, stormwater management, and recycled water distribution. This estimate, however, does not include any costs for the repair and maintenance of septic tanks or other household-level sanitation infrastructure. Since at least 1.2 million people in California rely on septic tanks, an estimate of capital needs that does not include septic maintenance and repair is incomplete and likely underestimates the problem.

1 Flegal, Chione, Solana Rice, Jake Mann and Jennifer Tran (in partnership with California Rural Legal Assistance, Inc. and California Rural Legal Assistance Foundation) 2013. California Unincorporated: Mapping Disadvantaged Communities in the San Joaquin Valley. 2013. Accessed November 30, 2017. https://www.policylink.org/sites/default/files/CA%20UNINCORPORATED_FINAL.pdf

Moreover, there is no centralized program for inventorying the number of homes relying on septic systems in California. In 2000, the California State Water Resources Control Board ("Board") estimated that 1.2 million single-family households relied on septic tanks, with an estimated 14,000 new tanks installed every year. These figures have not been revised or updated since 2000. While the Board adopted a new policy requiring local agencies to begin reporting some data on septic tanks, these data only include reported complaints and applications to clean, install, or replace septic tanks, rather than a comprehensive inventory of existing systems. Overall, septic tanks are less reliable and less closely regulated than centralized wastewater systems, making communities who rely on them the most vulnerable to improperly functioning waste management. Identifying the areas where these systems are concentrated and are failing is crucial to developing a plan of action for replacing or repairing substandard systems.

Finally, there is no statewide estimate of the number of residents lacking adequate sanitation. An estimated 220,000 people lack access to an indoor flush toilet, but this number does not include people without access to adequate treatment and disposal systems.²

Lack of Government Programs and Funding

State programs and funding opportunities that address sanitation focus on centralized wastewater systems. This approach is incomplete, and state investment should also address household-level sanitation needs, including failing septic systems. For example, the three largest funds available for HRTW are the Clean Water State Revolving Fund ("CWSRF"), the Drinking Water State Revolving

2 Feinstein, Laura and Gabriel Daess. 2018. Plumbing the Depths: An Analysis of Census Data on Running Water and Toilets in California, 2011-2015. Forthcoming.

Fund (“DWSRF”), and Proposition 1. CWSRF provides financial assistance to public agencies, nonprofits, tribes, and private entities for projects that protect California’s waters from pollution but none has been provided to homeowners to address septic tank problems. DWSRF provides financial assistance to public water systems to improve drinking water infrastructure and therefore does not provide assistance with household sanitation needs. Proposition 1 programs for HRTW include the Small Community Wastewater, Water Recycling, Drinking Water, Stormwater, and Groundwater Sustainability programs. None of these funds addresses household-level sanitation needs.

EFFORTS

Since HRTW was enacted, California government agencies and non-governmental stakeholders have focused most of their efforts on drinking water. These efforts, while commendable, have been incomplete. First, the need for improved drinking water access and quality continues to outstrip capacity and resources. Second, while sanitation requires an adequate supply of water, it also requires an array of public and private infrastructure and services for the hygienic disposal of human waste, including household-level infrastructure like a toilet or septic tank.

Government Agencies

California law directs the Board and the Department of Water Resources (“Department”) to consider the human right to water when revising, adopting, or establishing policies, regulations, and grant criteria. While the Board and Department have engaged in laudable efforts to further the human right to water for drinking, the programs and funding administered by these entities do not place the same focus on addressing sanitation needs.

The Board administers funds that provide financial assistance loans and grant funds for water projects, but none of the Board’s active funding and programmatic opportunities are currently available to individual households. With respect to drinking water, the Board’s focus on public water systems has left out private wells and water systems serving fewer than fifteen connections, which are regulated at the local level, rather than by the state. Additionally, none of the programs it administers address deficiencies for in-home plumbing and onsite wastewater treatment infrastructure needed for sanitation.

The Department currently administers over 20 separate funds that address different water issues and provide financial assistance to local agencies and projects. Two of these funds address drinking water, but none address wastewater or sanitation issues.

Nonprofit Organizations

In addition to the identified government agencies, many nonprofit organizations work to ensure the state upholds its commitment to HRTW through advocacy, organizing, litigation, research, and technical assistance. We review the work of the most prominent of these organizations.

Every organization profiled has engaged in commendable work with communities to improve drinking water and continues to supply vital services to underserved communities. But, as with state agencies, these organizations have devoted less attention to addressing sanitation issues. When asked about disparities in their work, many cited significant data gaps and few funding sources for residents as factors that limited their capacity.

Educational Institutions

Educational institutions conduct important research that leads to policy solutions to public

problems. For example, the University of California, Davis and the University of California, Los Angeles house research institutions that focus on environmental justice issues, including HRTW. Both institutes have conducted research on drinking water issues, but neither has devoted significant attention to sanitation.

RECOMMENDATIONS

The right to water for sanitary purposes is a critical component of HRTW. Fully realizing HRTW in California demands that attention and resources be devoted to both drinking water and sanitation issues. We make the following recommendations for action by the State of California:

Fully Implement the Human Right to Water

State agencies should not only “consider” HRTW but also carry out its principles, including when it comes to funding decisions. The mandate in California law should be an explicit part of the decision-making process in all agencies that deal with water issues, or whose activities affect water, not just the Board and the Department.

Make the Right to Sanitation Explicit

In the international context, lacking safe drinking water and lacking access to basic sanitation are two equal and important aspects of living with dignity. California, as the first state to recognize HRTW, should expand the notion of HRTW by explicitly recognizing the right to sanitation.

Increase Data Collection and Availability to the Public

The Board maintains a “Human Right to Water Portal” where it provides updates to the public about issues affecting water quality and access. Wastewater information, much of which is already reported to the Department by urban water

suppliers, should similarly be made available to the public.

In addition, the Board and Department should collaborate with local jurisdictions and regional and local agencies to ensure data on small-scale sanitation systems (such as septic tanks) are collected consistently. Once collected, these data should be readily available to the public.

Increase Access to Funding to Address Household-Level Sanitation Needs

Although the Board has authorized local agencies to apply to create septic tank loan programs for private homeowners using monies from the Clean Water State Revolving Fund, no agency has done so. Funds should be available to improve or establish in-home sanitation infrastructure. The state should also consider alternative mechanisms that would provide individual households with meaningful access to existing funds.

CONCLUSION

California made history by becoming the first state in the country to recognize a human right to water for consumption, cooking, and sanitation. While both drinking water and sanitation require far more resources and effort than they are currently receiving, the situation is particularly acute with respect to sanitation. Moving forward, California should make history once again, this time by becoming the first state in the country to fully realize HRTW by putting resources towards ensuring everyone has adequate sanitation.

For the full report, *A Survey of Efforts to Achieve Universal Access to Water and Sanitation in California*, please visit:

<https://www.aclunc.org/watersurveyreport>

or <http://pacinst.org/publication/a-survey-of-efforts/>

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