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## Original Article

# The EU and The Human Right to Water and Sanitation: Normative Coherence as the Key to Transformative Development

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**Abstract** The year 2015 is supposed to be a seminal moment in the international sustainable development agenda. World leaders are negotiating the Sustainable Development Goals Agenda and the European Union has declared 2015 to be the ‘European Year for Development’. The Post-2015 agenda is supposed to be characterized by more ‘transformative’ development strategies. Policy Coherence for Development (PCD) is considered to be an important tool for the establishment of ‘transformative’ development. This article examines EU development programmes in the field of water. It contends that even though the EU is a world leader in global water and sanitation programmes, its approach to development is not coherent with transformative change because these strategies employ PCD as a technical policy tool. Instead, the article contends that transformative development requires ‘normative coherence for development’ defined as coherence between strategies in development and non-development policy arenas and core democratic norms, such as human rights.

L’année 2015 est censée être un moment charnière dans l’agenda du développement international durable. Les dirigeants du monde sont en train de négocier l’ordre du jour de l’après-Objectifs Millénaire du Développement (OMD) et l’Union européenne (UE) a déclaré que 2015 sera «l’Année européenne pour le développement.» Le programme de l’après-2015 est censé être caractérisé par plusieurs stratégies de développement «transformatrices». La cohérence des politiques pour le développement (CPD) est considérée comme un outil important pour la mise en place d’un développement «transformateur». Cet article examine les programmes de développement de l’UE dans le domaine de l’eau. Il soutient que même si l’UE est un leader mondial en ce qui concerne les programmes d’eau et d’assainissement mondiaux, son approche du développement n’est pas cohérente avec le changement transformateur parce que ces stratégies emploient la CPD comme un outil de politique technique. Au lieu de cela, l’article soutient que le développement transformateur exige une ‘cohérence normative pour le développement» définie comme la cohérence entre les stratégies de développement et les domaines de la politique de non-développement et des normes démocratiques fondamentales, comme les droits humains.

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## Introduction

The year 2015 is supposed to be a seminal moment in the international sustainable development agenda. Most significantly, world leaders are negotiating the post-Millennium Development Goals (MDG) Agenda. In support of this moment, the European Union, the world’s largest development aid donor, has declared 2015 to be the ‘European Year for Development’. Following the events of 2015, the global development agenda is expected to take another step

forward in the reinforcement of global commitments to promote the so-called Sustainable Development Goals (SDGs).<sup>1</sup>

While there are many observers of this process (see Sachs, 2012; Martens, 2015; Sexsmith and McMichael, 2015) who express hope for constructive negotiations and the establishment of a progressive SDG agenda, pessimists abound. Scholars (such as Fukuda-Parr, 2010; Vandemoortele, 2011 and so on) have noted that the MDGs did not present scenarios that were realistic, and they promoted neither transformative change nor sustainability. In fact, many political and academic observers have expressed frustration at the lack of normative commitments to sustainable development generated by the international summitry of the 1990s and the 2000s.

This situation has characterized the global governance of water within the context of sustainable development debates. Social movements and institutional initiatives focusing on water and justice have existed since the 1970s. Langford and Winkler (2014) showed that quantitative target-setting has a long history in the water and sanitation sector. International efforts on development cooperation were moving from projects related to expansion of access to water supplies in the 1970s and 1980s (basically in Africa, Asia and Latin America), towards the target of universal access, encouraging overly technical solutions in the 1990s (despite the recognition of complexity and unsustainable solutions) and early 2000s with the surge of committed target-setting in the MDGs.

In terms of normative discourse, the evolution of international political commitments on water started with the United Nations Conference on Human Environment held in Stockholm in 1972. It continued through important international environmental instruments that recognized the vulnerability of water and the need to ensure its responsible use. These include the Dublin Statement 1992, the Convention on Biological Diversity 1992, the Fresh Water Treaty 1993 and the San Jose Declaration 1996. This movement coalesced into the official World Water Forums that have taken place every 3 years since 1997 along with their analogous Alternative People's Water Forums. In 2000 the MDGs included recognition of water as a fundamental factor for human development through the declaration of goal 7c, which established guidelines for access to water and sanitation.<sup>2</sup> This political commitment was reinforced by the 2006 United Nations Human Development Report. It is important to note that while all of these documents recognize the importance of water to development and the need for either conservation or access, consensus does not exist on the definition or implications of rights in relation to water (see Sutherland *et al.*, 2015).

These international initiatives have been accompanied by regional activities that do focus more specifically on rights. Regional water tribunals, where water injustices have been exposed and resolved, are the most innovative structures that address 'water and justice'. For example, in 1983, an environmental tribunal in Rotterdam, Netherlands analysed environmental damage caused to the Rhine river basin in a public hearing. Similarly, in 1992, severe water contamination cases from Asia, Africa, America and Oceania were considered at an NGO-run water tribunal in Amsterdam. In Latin America, various NGO-run water courts have also emerged. In 1983, Brazil's National Water Tribunal held its first public hearing in Florianopolis to review cases on mining, radioactive and agro-chemical contamination, as well as cases related to large-scale hydroelectric generation projects. The Central American Water Tribunal (CAWT) was created in 1998 with the purpose of contributing to the resolution of conflicts related to water ecosystems in Central America. After 2 years and five public hearings held in different capitals of Central America, which caught the international media's attention, the founders of the CAWT created the Latin American Water Tribunal in 2000 in order to increase the impact of this body throughout Latin America. Its objectives are the same as the CAWT: to contribute to the

resolution of conflicts related to water ecosystems in Latin America by providing an alternative platform for social participation, mediation and environmental justice.

Despite the plethora of initiatives at the global and regional level focusing on the relationship between water and inequality, the impacts of justice-based endeavours on water management in development programmes have been limited. Scholars of water politics, such as Maria Rosa Garcia-Acevedo and Helen Ingram, have illustrated this point with research that has shown that domestic political power is a more significant frame of reference in global water debates than are international norms (Garcia-Acevedo and Ingram, 2004). According to the 2006 Human Development Report, the world is not running out of water but distribution is unequal because of power imbalances. The report states:

... absolute scarcity is the exception, not the rule. Most countries have enough water to meet household, industrial, agricultural and environmental needs. The problem is management” (United Nations Human Development Report, 2006, chapter 4:133). The report continues, “Globally there is more than enough [water] to go round: the problem is that some countries get a lot more than others (ibid., p. 135).

The social impacts of these management issues are tangible. According to the United Nations Development Programme (UNDP) and the WWAP, 748 million people lacked access to an improved drinking water source, about 1.2 billion people still live in areas where water is physically scarce (extreme poverty), 2.5 billion do not have access to basic sanitation and about 2 million deaths occur per year (mostly children) due to water quality-related illnesses, such as diarrhoea and cholera (UNICEF, 2012 and WWDR, 2015). Given these trends, it is important then to ask: Why have justice-based initiatives had such limited impacts even though they reflect core values in democratic polities?

The declaration and implementation of MDG 7c since 2000 has raised considerable debate surrounding this issue. This goal aimed to ‘halve, by 2015, the proportion of the population without sustainable access to safe drinking water and basic sanitation’. The United Nations (UN) has declared on its website ([www.un.org/millenniumgoals/environ.shtml](http://www.un.org/millenniumgoals/environ.shtml)) that it met this target 5 years ahead of schedule. The 2015 MDG global report states that more than 90 per cent of the global population is using an improved drinking water source, compared with around three-quarters in 1990. And about 2.6 billion people have gained access to improved drinking water since 1990. Regarding sanitation, the report shows that worldwide 2.1 billion people have gained access to improved sanitation. The proportion of people practising open defecation has fallen almost by half since 1990.

Critics, however, have contested UN estimates in relation to this claim. Langford and Winkler (2014) argue that the decade of MDG water target success should engender suspicion as to whether the bar was set too low (in terms of the benchmark to be achieved and the indicators selected). These authors analysed the so-called ‘reductionist philosophy’ of the water MDG as inappropriate in a context when the international community has recognized, since the 1990s, the complexity of water and sanitation and the importance of tackling the interrelated issues of quality, affordability, equality and sustainability.

Moreover, many official reports (see UNICEF) have noted that global UN statistics have masked significant variations as progress has been limited to specific world regions (notably Asia because of significant advances achieved in China) while other world regions (especially Africa) are lagging behind. These differences may be related to a confusion between the account of universality and what individual states were expected to do. According to Long (2015), the MDGs were proclaimed ‘global in nature’ but they were not universally applicable to all countries. Kumi *et al* (2014) add to this commentary the discussion of equity issues not fully

considered in the MDGs recognizing that power and political matters should be more seriously addressed in the SDG agenda. Other observers, such as Onda *et al* (2012), have questioned the quality of the drinking water to which the world's poor have gained access, contending that many people categorized in the UN's statistics as 'having gained access' actually utilize contaminated drinking water. Finally, scholars such as Fukuda-Parr (2010) have contended that Poverty Reduction Strategy Papers and donor policy statements are selective, consistently emphasizing income poverty and social investments for education, health and water, but not other targets concerned with empowerment and inclusion of the most vulnerable.

This article builds on this important reflection. Observers of Policy Coherence for Development (PCD) (see Carbone, 2008; Cercle de Cooperation, 2014) have noted that PCD is not only a policy tool, but a normative statement, because it adds value to development cooperation by prioritizing it. Nonetheless, this article contends that discussions related to development cooperation and water (and sustainable development in general) have focused squarely on technical aspects of service delivery to the detriment of normative positions. Without normative bases for development cooperation, development strategies may provide material benefits, but do they really address the inequitable distribution of water in the world? For this reason, this article contends that PCD discussions should focus on *normative coherence for development* defined as coherence between policymaking in development and non-development policy arenas and core democratic norms, such as human rights. In order to highlight this approach, the article examines water programmes in European Union development cooperation, and asks the following research question: How well do EU water development strategies reflect the core norms expressed in the Union's defining treaties?

The article is divided into four parts. Following this introduction, part two critically examines the literature on PCD and Sustainable Development and it discusses the need to highlight the normative significance of PCD. Part three then presents an examination of European Union development policies in the field of water politics through the lens of PCD. It contends that the EU has established policies that are congruent with the MDGs, but because they lack normative coherence with the Union's core values, they promote indicator-based development strategies and the privatization of water, rather than transformative development cooperation. Finally, part four presents the article's conclusions on normative coherence for development.

## Research Design and Methods

This article focuses on the European Union because it represents a critical case in the study of PCD and water. First, the EU is one of the most important donors active in international development. It collectively contributes €54 billion for development aid programmes, which represents 56 per cent of the world's development aid (the EU direct contribution – excluding those made by member states – is 12 per cent of the world's total development aid) (see [ec.europa.eu/europeaid/what/environment/water-energy/index\\_en.htm](http://ec.europa.eu/europeaid/what/environment/water-energy/index_en.htm)). Second, the European Union positions itself in global affairs as a normative power, contending that it promotes democratic norms such as human rights, gender equality and democratic participation, more so than other international donors, such as the United States, Japan or China (see Börzel and Risse, 2004; Lightfoot and Burchell, 2004, 2005). Third, the EU has made a normative commitment to PCD through different policy instruments and treaties (see below). For these reasons, the EU should be expected to support normative positions related to PCD, water and development cooperation. In order to operationalize this concept, the article critically analyzes European development programmes in relation to the Human Right to Water and Sanitation.

In terms of methods, the article is based on a review of secondary literature, EU, OECD and UN policy documents, reports from non-governmental organizations and United Nations databases. This article is part of a larger project funded by a faculty research grant from the University of Luxembourg that examines the potential for regional organizations to promote equitable development. It also benefited from support from the Consortium for Comparative Research on Regional Integration and Social Cohesion (RISC).

## Part II: Literature Review: PCD and Water Within the Framework of Sustainable Development

The literature on sustainable development as both a concept and a policy objective highlights the dual nature of this paradigm. As stated above, it is popular because it can be adopted by different political groups with diverse agendas and sets of objectives. However, scholars have clearly noted the concept's limits because of its lack of clarity. In his 2008 review article in *Environment and Planning C (Government and Policy)*, Jordan (2008) illustrated – through a comprehensive review of the literature on sustainable development and governance – how these two concepts provide a weak foundation for scholarship on development because they are muddled and contested terms. Other scholars, such as Lélé (1991), have noted that sustainable development can be popular with economists because it literally examines ‘development that can be sustained’, but also with ecologists (because of its focus on conservation), defenders of human rights (especially in regard to its inclusion of indigenous groups) and political scientists (because of its heavy focus on governance), among others. Hajer (1995) takes this argument one step further by contending that the global coalition in support of sustainability in international debates would absolutely break down should the term be defined with more precision, given the inclusion of both radicals and conservatives in this movement. Redclift (2006) more forcefully discusses sustainable development as an oxymoron ‘coming of age.’ He contends that this concept has emerged as a product of competing discourses that hold different meanings depending on whether we prioritize ‘sustainable’ or ‘development’.

More importantly, Redclift also correctly indicates that while much of the literature addresses how to achieve sustainability, there are few works that ask: ‘What should we sustain’? This question is fundamental to our understanding of ‘why’ we should practice sustainable development. This interesting article reminds us that ‘sustainability’ is only valuable when consensus exists surrounding values and norms to be sustained.

This approach is vital to the post-2015 SDG agenda. Building on criticisms of the MDGs’ focus on indicators, ‘transformation’ has become a central theme in SDG discussions. Many observations on the need for ‘transformative development’ have focused on local empowerment in relation to making the SDGs more inclusive and participative than the MDGs were (see Rivera, 2013; Sexsmith and McMichael, 2015). Nonetheless, this empowerment must take place in a context in which the very nature of ‘sustainability’ agendas contributes to discussions on equity, security justice and rights (see Allouche, 2015) that characterize ‘transformation’. Sachs (2012), Special UN Advisor on the MDGs, has identified the need to move beyond poverty-reduction to a ‘triple bottom line’ approach that includes economic development, environmental sustainability and social inclusion. This approach has been echoed by other observers, such as Battacharya *et al* (2014), who (in their comment on the report of the UN Open Working Group on SDGs) included their opinion that the document has not significantly addressed ‘a consensus on transformative development’ that identifies which aspects of the SDGs are ‘universal’ and which ones are ‘national’. Martens (2015) has also indicated that

the SDGs must embrace a ‘universal’ approach to development in order to promote real change in development cooperation relationships that address power imbalances in international economic and financial systems. On the basis of these debates, this article defines ‘transformative development’ as universal development strategies that promote human rights and social justice at the local level, and address power imbalances in the global political arena.

The present article applies this logic to PCD. While it is a useful policy tool for the improvement of the efficiency and effectiveness of development programmes (the ‘how’ mentioned above), PCD’s greatest significance is its normative value, which highlights the importance of idea-based commitments for transformative development (the ‘what’ and ‘why’). The proposed SDGs have included norm-based goals such as SDG 10 (Reduce inequality within and among countries) and SDG 16 (Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels), in addition to sector-specific objectives such as SDG 6 (Ensure availability and sustainable management of water and sanitation for all). In order to ensure transformative development as defined above, the establishment of coherence between the SDGs, linking normative and practicable objectives, is a priority.

### **PCD, Sustainability and Water**

Fifty years after the UN proclamation of the first development decade, it is largely understood that development aid cannot alone solve global development problems. Policies that go ‘beyond aid’ may have a profound impact on the prospects of developing countries – in areas such as agriculture, environment, energy, finance, health, migration and security. It is widely recognized that attaining the MDG requires mutually supportive policies, or PCD. Policy coherence is defined as ‘working to ensure that the objectives and results of a government’s (or institution’s) development policy are not undermined by other policies of that same government (or institution), which impact on developing countries, and that these other policies support development objectives where feasible’ (OECD, 2005, p. 28). As a minimum, coherence means ‘doing no harm’. More ambitiously, it calls for ‘the systematic promotion of mutually supportive policies ... to help achieve mutually agreed international goals’ (ibid., p. 23).

The literature on PCD has evolved significantly and it is characterized by a rich scholarship. As the concept emerged in policy documents issued by the OECD and the European Union (see below), academics began to take note of the importance of this policy tool. The first academic studies by scholars such as Forster and Stokke (1999) and Hoebink (1999) examined the state of PCD in different polities (the EU, European states, the United States and Japan). As the literature began to develop, scholars began to address specific issue arenas. Studies have been conducted on PCD and security (Picciotto, 2004), trade (Stocchetti, 2013), migration (Nyberg-Sorensen *et al*, 2002), foreign direct investment (Mayer, 2006) and so on. More recent studies have examined institutional complexities related to PCD (for example, Carbone, 2009). Conceptually, great strides have been made in making definitions of PCD more precise and identifying typologies. A certain degree of policy incoherence is inevitable in a pluralist society represented by legitimate conflicting interests (Hoebink, 2004; Carbone, 2008). This is the classical case of *horizontal incoherence*, such as that between aid and non-aid policies. But incoherence can also be caused by different policies between the member states and the EU (Carbone, 2009). This is the case of *vertical incoherence*. Third, incoherence may come as a result of different policies across the member states of the EU (or at the *inter-donor level*, meaning inconsistency between aid and non-aid policies across OECD countries). Fourth, *internal coherence* refers to the consistency between the objectives and means of a given policy (Carbone, 2008, p. 326; OECD,

2009, p. 24). Fifth, *inter-organizational incoherence* may result from different policies of government and civil society organizations. The sixth variation is *multilateral incoherence*, which refers to incompatible goals and procedural norms of international organizations (and the whole 'aid architecture'), such as the EU, OECD, the UN and the international financial institutions. Finally, *donor-recipient incoherence* may result from policy differences between the industrialized countries and developing countries, or from heterogeneity between and within developing countries (that is when similar policies are run in very different kinds of developing countries or in different parts of the same countries).

PCD has also come to represent a political statement in global affairs. No longer simply a technical tool, PCD holds a normative value because it prioritizes human development over competing policy arenas (see Carbone, 2008). In principle, it can be justified with several arguments. First, PCD aims to ensure that developing countries' current or future prospects are not hurt by industrialized countries' policies (the so-called 'kicking away the ladder' (Chang, 2003)). Second, it is not reasonable to give with one hand and take away with the other (Cercle de Cooperation, 2014).

In the field of sustainable development, PCD has received prominent attention recently. Numerous scholars (see Matthews, 2008; Carbone, 2009) have examined PCD and agricultural policy. Other policy arenas related to sustainable development that have been analysed in the literature are fisheries (Kaczynski and Fluharty, 2002), biodiversity (Nilsson, 2012), energy (King *et al.*, 2013), food security (Lundstrom Sarelin, 2007) and climate change (Kok and de Coninck, 2007).

While this literature is rich in terms of empirical analysis of PCD, it focuses mostly on governance mechanisms aimed at improving PCD in relation to sustainable development, while largely neglecting normative debates relevant to PCD. Scholars active in this field have examined PCD in terms of the EU and global environmental governance (see *Poverty, Development and the Environment*; Jones, 2002), global environmental regulatory institutions (Gupta, 2002), coordination of local governance with global concerns (see Brodhag and Talière, 2006), and the coherence of financial instruments meant to promote sustainable development (Koehane and Levy, 1996). Returning to Redclift's questions cited above, this field is dominated by works that focus on how to achieve sustainability. There is a dearth of works focusing on what to sustain and why to pursue sustainable development. The relationship of PCD to 'transformative development' and the SDGs has not been addressed, and this article contends that this should be a priority for both academics and practitioners.

The literature more specific to PCD and water, already limited in scope, suffers from the same limitations. Huitema and Meijerink (2010) examine how transitions occur in water governance with a focus on policy entrepreneurs. Tropp (2007) similarly examines these transitions with a focus on capacity development. On the policy output side, King *et al.* (2013) analyze coherence between technologies and policies at the water-energy nexus. Reyes-Mendy *et al.* (2014) introduce the concept of 'policy statement coherence' as a management tool to better achieve sustainable development objectives in the field of water.

The literature on norms, water and development is quite small but it already identifies important themes. Sacher and Windfuhr (2008) have published the most precise work on this subject. It examines the implications of the debate on the Human Right to Water and Sanitation for development assistance. The article analyzes conceptual relevance for development, measures and implementation of rights-based policies, and policy impacts. It outlines the added value of human rights approaches to water policies in development assistance programmes. Similarly, Winkler (2014) discusses the importance of the Human Right to Water and Sanitation, and how this right establishes more coherence between water management and poverty alleviation. Filmer-Wilson (2005) specifically discusses the relationship between the

Human Right to Water and Sanitation and empowerment in local communities, thus improving the effectiveness of water policies through shared ownership.

This article builds on this literature by arguing that PCD in water-related development programmes should focus on normative significance, because it both improves the effectiveness of water programme implementation in development assistance and justifies activities in this field. In the most comprehensive report to date of the proposed SDGs and water management, the Stockholm International Water Institute (SIWI, 2015) writes, 'As this report was going to press, the proposed SDGs included a dedicated SDG on water with six targets to be reached, but water was hardly mentioned in targets to other SDGs, such as those addressing food, energy and climate change' (SIWI, 2015, p. 4). While it does not explicitly mention PCD, the SIWI report concludes that the lack of policy connections between water availability and other SDGs could establish significant obstacles for implementation of the SDG agenda.

In fact, it is interesting to note that justifications for PCD have rarely included normative arguments, instead focusing on practical issues. For example, works by scholars such as Ashoff (2005) identify the following justifications for PCD: the improvement of policy effectiveness; the necessity to improve PCD as a component of a multi-level system of global environmental governance; the programmatic justification that PCD is part of the (post)MDG agenda; and the justification that PCD is an essential tool to overcome the limits of development cooperation. While these arguments are valid, they limit analysis of PCD to its utility as a policy tool. Instead, this article contends that transformative policy strategies, such as those identified as characteristics of the SDG agenda, must be formulated through normative policy statements that are coherent with the core values of donors. Such an approach addresses the defining questions asked by Redclift: Why pursue sustainability? What shall we sustain? And how to achieve sustainable development? This approach is the focus of part III, which examines PCD and EU development aid focusing on access to water.

### **Part III: PCD and EU Water-Related Development Strategies**

As stated above, this article focuses on the EU because of its well-established political support for PCD. The EU first adopted PCD with the Maastricht Treaty in 1993 (Hoebink 2004) and the Cotonou Partnership Agreement in 2000 (Laakso *et al*, 2007). However, only in 2005 was PCD established on the EU agenda with the Commission adopting a communication with a focus on PCD, and the EU Council adopting conclusions on PCD (CEPS, 2006). PCD was also integrated into the EU development policy programme (European Consensus on Development, EU, 2006). The Lisbon Treaty of 2009 further reinforced the Union commitment to PCD, stating that 'the Union shall take account of development cooperation in the policies that it implements which are likely to affect developing countries' (Article 208). The EU is also committed to a biannual PCD reporting process (EC, 2007, 2009, 2011). In 2007, the decision was made to focus on five priority areas: trade and finance, climate change, global food security, migration and security. In 2010, the European Commission presented the PCD Work Programme (EC, 2010) for the years 2010–2013, structured around the five priority areas.

PCD has been on the OECD agenda since the early 1990s. The 2002 Ministerial Statement (OECD Action for a Shared Development Agenda) points out that, when formulating policies across the policy spectrum, OECD countries should take account of the potential impact on developing countries. In response to the 2002 Ministerial Statement, the OECD (2005) launched a programme on PCD. In 2008, ministers of OECD (2009) countries adopted the Declaration on PCD. The Development Assistance Committee of the OECD, which includes most EU member



countries and the European Union, has organized peer reviews of its member states' development policies, where policy coherence has received growing importance. In 2007, the Development Co-operation Directorate and the Development Centre of the OECD jointly created the OECD Network of National Focal Points for PCD (the PCD Network) 'to establish better communications between the OECD and officials in capitals on Policy Coherence for Development'. At the meeting on 9 February 2012 in Paris, the Network envisioned that PCD would be a core element of the new development paradigm (OECD, 2012).

In several European countries, PCD has increasingly become a political commitment. For example, the Netherlands and Sweden have put policy coherence at the core of international development co-operation policies (OECD, 2005). In Finland, PCD is one of the guiding principles of development policy (MFA, 2012). The new law on development co-operation of Luxembourg, enacted by the parliament on 29 March 2012, pays particular attention to PCD (Chambre des Députés, 2012; Keup, 2012). Moreover, European non-governmental Organizations (NGOs) have actively raised issues of importance to PCD, informing the wider public on these issues and lobbying national and European leaders. The European NGO Confederation for Relief and Development (CONCORD) has published several case studies and reports related to PCD (CONCORD, 2011).

Despite its increasing popularity, PCD is often viewed as a technical instrument aimed at improving the effectiveness and efficiency of development cooperation strategies. The EU and the OECD, as well as member states such as the Netherlands, Germany and Sweden, have adopted PCD as a means to improve their performance as development aid donors. However, it would be a mistake to limit PCD to the role of simple policy instrument. Breaking with most traditions in foreign affairs, it is a policy instrument that places foreign/trade policies in a supporting role for development. In some cases, such as Germany, all laws passed by the Parliament must first be reviewed by a Parliamentary Committee on PCD in order to discuss potential impacts on German development aid. In the Netherlands, a PCD Unit has been created inside the Ministry for Foreign Affairs in order to review and inform foreign policies. Luxembourg has established an Inter-Ministerial Committee for Development Policy that is responsible for the coordination of PCD. Consequently, PCD is a normative statement prioritizing development cooperation in foreign affairs. This instrument has been a fundamental governance mechanism in support of the MDGs, and it should continue to support the SDGs that have been proposed for the post-2015 agenda. For this reason, this article identifies *Normative Coherence for Sustainable Development* as a policy concept that has often been overlooked in the academic literature on PCD, which should instead hold a place of primary importance, especially within the context of the present SDG debates on 'transformative development' as defined above. Normative coherence refers to the coherence between development and non-development policy arenas and core democratic values, upheld in the discourse of the EU and European development donors. In this regard, it directly responds to the question posed by Redclift in his critical review of sustainable development: 'What are we attempting to sustain?' This article addresses this question with regard to EU development aid, focusing on water, by contending that what we are attempting to sustain should be core democratic values, such as human rights, that are expressed in defining political treaties.

### **The EU and the Human Right to Water and Sanitation: A Study of Rights, Privatization and Aid**

As mentioned in the introduction, the European Union can be considered a critical case for the study of normative coherence in global affairs because it is the largest development aid donor in the world, and because it positions itself in global affairs as a normative power, contending that it

promotes democratic norms such as human rights, gender equality and democratic participation, more so than other international donors (such as the United States, Japan or China). In the field of international development, the EU has been very careful to integrate core values in its key policy documents. For example, Sandra Häbel compared the core values expressed in the Treaty of European Union with the European Consensus on Development. Table 1 shows that most of these values have been translated into the EU’s development strategies.

The Treaty on European Union also includes an article that states, ‘The Union’s action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law. [...]’ (Article 21). This commitment has been reinforced in other key governance treaties. For example, the EU has promoted these values through the implementation of aid conditionality in the Lomé IV Convention 1989, the European Initiative for Development and Human Rights 1999 and the Cotonou Agreements 2000. For the combination of these characteristics, the EU would be expected to be the international donor most committed to normative coherence, especially in the field of human rights. This article examines this hypothesis in regard to the Human Right to Water and Sanitation.

### The Human Right to Water and Sanitation and the EU

The Human Right to Water and Sanitation was passed by the UN in 2010. This human right includes the following characteristics:

- (1) *Sufficiency*. The water supply for each person must be sufficient and continuous for personal and domestic uses. These uses ordinarily include drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene. According to the World Health Organization (WHO), between 50 and 100 liters of water per person per day are needed to ensure that most basic needs are met and few health concerns arise.
- (2) *Safety*. The water required for each personal or domestic use must be safe, therefore free from micro-organisms, chemical substances and radiological hazards that constitute a

**Table 1:** Values TEU and ECD

| <i>Value</i>              | <i>TEU</i> | <i>European consensus on development</i> |
|---------------------------|------------|--|
| <i>Human dignity</i>      | X          | X  |
| <i>Freedom</i>            | X          | X  |
| <i>Democracy</i>          | X          | X  |
| <i>Equality</i>           | X          | —  |
| <i>Rule of law</i>        | X          | X  |
| <i>Human Rights</i>       | X          | X  |
| <i>Pluralism</i>          | X          | —  |
| <i>Non-discrimination</i> | X          | —  |
| <i>Tolerance</i>          | X          | —  |
| <i>Justice</i>            | X          | X  |
| <i>Solidarity</i>         | X          | X  |
| <i>Gender equality</i>    | X          | X  |
| <i>Good governance</i>    | —          | X  |
| <i>Peace</i>              | —          | X  |

Source: Häbel (2013).

threat to a person's health. Measures of drinking-water safety are usually defined by national and/or local standards for drinking-water quality. The WHO Guidelines for drinking-water quality provide a basis for the development of national standards that, if properly implemented, will ensure the safety of drinking water.

- (3) *Acceptability*. Water should be of an acceptable colour, odour and taste for each personal or domestic use. [...] All water facilities and services must be culturally appropriate and sensitive to gender, lifecycle and privacy requirements.
- (4) *Physical accessibility*. Everyone has the right to a water and sanitation service that is physically accessible within, or in the immediate vicinity of the household, educational institution, workplace or health institution. According to WHO, the water source has to be within 1000 m of the home and collection time should not exceed 30 min.
- (5) *Affordability*. Water, and water facilities and services, must be affordable for all. The UNDP suggests that water costs should not exceed 3 per cent of household income ([www.un.org/waterforlifedecade/human\\_right\\_to\\_water.shtml](http://www.un.org/waterforlifedecade/human_right_to_water.shtml))

Above all, this measure is significant for its normative power as a declaration of the legal and political importance of water to the maintenance of human dignity. The UN recognizes on its web page the importance of the 'human right' denomination to the organization's efforts to promote the attainment of MDG 7c: 'Halve, by 2015, the proportion of the population without sustainable access to safe drinking water and basic sanitation'.

While this human right represents an important step forward in terms of the establishment of value-based development, the acceptance of 'transformative development' among global actors remains incomplete. In fact, Maganda (2010) has noted that when the UN recognized the Human Right to Water and Sanitation in 2010, this initiative was promoted in the UN by South American countries, most notably Bolivia. It became an issue that developing states in different world regions could rally around, which is why the initiative passed. When this right was voted upon by the UN General Assembly in July 2010, however, the EU's member states all abstained, thus contributing to the resolution's failure to pass in the assembly (the resolution was adopted by consensus by the Human Rights Council in September 2010). While the EU remains committed to reinforcing access to water as good management practice and it is committed to improving access to water as part of its anti-poverty programmes, it does not explicitly recognize the right to water or water security positions because of their normative implications. This is also evident in EU policy documents related to development aid programmes and water.

The European Union is one of the most important donors in the world in the field of water. According to the European Commission:

Between 2004 and 2009, thanks to support from the European Commission, more than 32 million people have gained access to improved water supply and 9 million to sanitation facilities. Financing for water and sanitation programs, which help build infrastructure for drinking and waste water systems, and provide basic sanitation and hygiene, amounts to almost €400 million per year; programs are implemented in over 30 countries. Projects target the most vulnerable and needy groups in rural and peri-urban areas. Each project ensures active participation of local partners such as NGOs or local government. Today, the EU (European Commission and Member States) provides close to €1.5bn each year for water and sanitation programs in developing countries – making it the biggest contributor. (see [ec.europa.eu/europeaid/what/environment/water-energy/index\\_en.htm](http://ec.europa.eu/europeaid/what/environment/water-energy/index_en.htm))

Nearly one-third of the €5.9 billion spent globally in development programmes for drinking water and latrines comes from the EU, with Sub-Saharan Africa receiving 28 per cent followed by South Asia with 19 per cent ([www.euractiv.com/sustainability/audit-questions-sustainability-e-news-515098](http://www.euractiv.com/sustainability/audit-questions-sustainability-e-news-515098)). The European Council has reinforced this material contribution to development

programmes in the field of water through the adoption of a technically coherent approach to these programmes. Specifically through Issue Paper 10448/11 (2011), the Council outlined an approach to development cooperation in the field of water that explicitly recognizes the importance of water to development in other sectors. The Issue Paper openly declared the need to mainstream water programmes in development strategies concerning agriculture, education, gender, health, energy, environment, and peace and security (see Council of European Union, 2011). In recognizing the importance of water to human, social and economic development, the Council paper concluded that water cannot be simply considered a sector on its own, and therefore future EU development strategies should treat it as a horizontal issue.

Despite this cross-cutting approach that demonstrates a policy commitment to PCD, the EU, thus far, has not supported rights-based approaches to water governance in its foreign affairs. The policies presented on the EU-Development and Cooperation (EUROPEAID) website demonstrate this. The EU Water Initiative highlights its role as an international political initiative that ‘mobilizes all available EU resources and coordinates them to achieve the water-related MDGs in partner countries’. Like the domestic European Water Directive, which approaches water governance as a technical issue, this initiative marginalizes the role of ‘rights’ in water management discussions. This approach guides European development policies, which often focus on technical obstacles to water distribution in poor areas. Because water is a critical resource for socio-economic development, and because water policy is an important tool in the fight against or reinforcement of development inequalities in the world, this strategy is especially relevant for human security concerns in Europe and beyond. In this respect, the EU demonstrates that its water management strategies are characterized by domestic–foreign policy coherence. However, this cannot be considered ‘normatively coherent’, as water governance approaches in both domestic and foreign policy do not reinforce the EU’s declared commitments to human rights.

This normative incoherence has been highlighted by different European institutions in their criticisms of EU development policies in the field of water. In 2012, the European Court of Auditors produced a scathing special report of EU development strategies in the field of water and sanitation in sub-Saharan African states (Angola, Benin, Burkina Faso, Ghana, Nigeria and Tanzania). The Court audited 23 programmes in these six countries with the objective of determining whether or not the European Commission was carrying out its development programmes in relation to water in an effective and sustainable manner. The Court’s enquiry found that the Commission’s programmes were successfully installed in terms of infrastructure and that the materials utilized to complete them were locally available. In addition, the technology employed was readily available to development aid recipients. Nonetheless, the Court’s study indicated that fewer than half of the projects that were audited met the beneficiary’s needs (European Court of Auditors, 2012). Some of the harshest criticisms from the report include:

- Only four of 23 projects reviewed by the auditors generated enough revenue from tariffs to cover operations
- Three were funded with government aid or other resources
- For the remaining 16 projects, there were ‘no formal commitments’ to support infrastructure beyond installation
- Boreholes paid for by the EU were no longer functioning or in poor working condition
- Water pumping stations in some cases built without sufficient electricity to run the pumps.

The Court of Auditors’ report illustrates the limits of technical approaches to water provision in development programmes. When aid programmes focus on targets and deliverables without

developing a vision based on normative considerations, incoherences like those cited by the Court can occur. Numerous examples have also been cited at the urban level as well. Studies of water provision in large cities (such as Yaoundé, Cameroon; Nairobi, Kenya and Manila, Philippines – see Hall, 2006; Kuitscha *et al*, 2008; IBON, 2013) have shown that water costs five to ten times more for urban residents of poorer neighbourhoods, compared with residents of wealthier neighbourhoods, because the infrastructure provided by development aid programmes is not supported by urban distribution networks. While normative coherence does not necessarily affect technical project implementation, it is highly relevant to the nature of development cooperation partnerships. Donor–recipient relations can be improved through normative coherence, and more effective partnerships will address both implementation issues. Above all, the problems highlighted by the Court of Auditors above related to both ‘project ownership’ (defined as the definition and appropriation of development strategies by aid recipients) ([www.oecd.org/dac/effectiveness/parisdeclarationandaccraagendaforaction.htm](http://www.oecd.org/dac/effectiveness/parisdeclarationandaccraagendaforaction.htm)) and ‘project sustainability’ (defined as activities that are likely to continue after donor funding has been withdrawn) ([www.oecd.org/dac/evaluation/dacriteriaforevaluatingdevelopmentassistance.htm](http://www.oecd.org/dac/evaluation/dacriteriaforevaluatingdevelopmentassistance.htm)).

The European Parliament has also recognized the need for greater normative coherence in its own analysis of EU development policies in the field of water. In its 2012 Briefing Paper, the report concluded that mixed progress has been achieved in the field of water and sanitation. On the positive side, the study reports that the EU (through its ACP-EU Water Facility) has supported water infrastructure and supply projects, particularly in rural areas; with a focus on the poorest of the poor, it has encouraged partner governments to seek support for sanitation. Moreover, the European Union Water Initiative has sought to promote policy dialogues to improve coordination and cooperation in the sector. The report also recognizes that the EU has supported a number of civil society projects that have sought to advocate water or sanitation issues in local and national contexts in Costa Rica, Bosnia and Herzegovina and the Occupied Palestinian Territories. Most importantly, the EU has promoted human rights approaches more broadly in gender equality projects (European Parliament, 2012).

Despite these advances, the Parliamentary study was also critical of the European Union’s water practices in development cooperation due to the lack of integration of human rights approaches. The report contended that the EU should integrate water and sanitation into its *Agenda for Change* along with sustainable agriculture and energy. More specifically, the Parliament recommends that the EU commission an external assessment of its water and sanitation projects in its development programmes with the aim of reinforcing human rights approaches. Another important recommendation states that the EU should review loan, grant and trade negotiation policies concerning privatization and public–private partnerships (PPPs) in the water sector, and assess whether human rights criteria are being met. These recommendations reflect important institutional differences within the EU, where the Parliament has traditionally been more sympathetic to human rights approaches to development than the Commission (see Youngs, 2003). Because the Commission is ultimately responsible for EU development aid strategies, this limits the EU’s commitment to transformative development; scholarship has noted that EU funding of development strategies does not reflect the normative language of EU foreign policy discourse (see Bonaglia *et al*, 2006).

This aspect of EU water programmes in development cooperation has proven to be highly political and problematic in terms of governance. The EU has in fact supported privatization of water supplies in developing regions, especially in Latin America. For example, Suez-Lyonnaise des Eaux’s 1999 takeover of EMOS, the water company of Santiago, Chile, was the second largest privatization of a local water utility following Berlin, Germany (Hall, 1999). Sometimes these reforms have taken the form of PPPs. In 2007 there were more than 220 PPP active water

projects, operating in 41 developing and emerging states (Marin, 2009). While there was a significant decrease in the number of PPPs in Latin America between 2000 and 2007 (where the Human Right to Water and Sanitation is a political priority), a significant increase in PPPs occurred during the same period in East Asia, Sub-Saharan Africa and Eastern Europe (Marin, 2009).

However, as the above-mentioned 2012 Parliamentary report has commented, there is little evidence that privatization and public-private partnerships have made water delivery more effective, more efficient or more sustainable. For example, Veolia and Suez took over Agua Argentina in 1993, with an economic impact on pricing and service provision so problematic that hundreds of residents of Buenos Aires protested over rate increases, and the Argentinian government took measures to re-appropriate the water utility as a public entity (Loftus and McDonald, 2001). Again, normative incoherence directly affected the quality of development partnerships in these cities, which impacted the effectiveness of water provision projects.

In addition, the EU's political legitimacy has been questioned in this field because multinational corporations that are winning contracts through EU programmes (such as SLI and Veolia) are power brokers in the European political system. By 2005, these two companies (along with RWE) held about 75 per cent of the world's private water supply market (Beder, 2006). While no clear evidence exists that water policy reforms in developing states promoted through EU development aid programmes aim to benefit European multinational corporations, the EU support for privatization and refusal to politically support the Human Right to Water and Sanitation has led to protests amongst civil society organizations. The NGO CEO has published detailed reports on Veolia Environment's lobbying activities on water at the EU level, in which it contends that the company affects EU positions on the privatization of water through direct lobbying efforts carried out at its office in the EU quarter in Brussels, through pressure from the French state with which it enjoys a very close relationship, and through its powerful position in European water associations such as the International Federation of Private Water Operators (AquaFed) and the European Water Association.

Privatization is, in fact, a priority for these lobbies on the European domestic agenda. Commission Reforms of EU utilities procurement regulations have liberalized the EU market establishing European competition in this field, thus breaking the monopolies of public bodies in EU states. Water management has been significantly affected by this directive as private corporations can now bid for procurement contracts more competitively (see Guérin-Schneider *et al*, 2014; Hervé-Bazin, 2015). These procurement reforms are part of the EU's 2020 Growth Strategy. In response, most of the 'Human Right to Water' movements in Europe have actually focused on water management within the EU as much as if not more than development aid programmes (see Petrella, 2001). These reforms in the direction of privatization have affected EU relations with third countries, especially in the field of trade. The EU (specifically the Commission) has promoted the liberalization of service sectors in trade policies at both the multilateral (WTO) and bilateral level. Since 2000, the EU has supported the privatization of service industries through the General Agreement on Trade in Services (GATS). According to official documents, 'The EU agenda is to seek better access for European services exporters in foreign markets' (see <http://www.europarl.europa.eu/hearings/20021126/itre/contributions.pdf>). During the first GATS negotiations, the European Commission included a new category of 'environmental services' including water collection, taking advantage of the vague wording of the agreement with regard to the definition of 'public services' susceptible to privatization. In Brussels, the preparation for these policy proposals was accomplished through consultation with the private sector, in order to gain better understanding of particular sector/company needs. In the field of water, Veolia and SLI were consulted because of the aforementioned difficulties with

water privatization in the 1990s. Through the GATS, the EU aimed to protect European multinational corporations from the enormous economic losses that they had previously suffered in Latin America (CEO, 2008).

The privatization of water services was officially introduced in the GATS negotiations by the Commission in 2003, through an initial request for the privatization of water services in certain WTO member states (Raza, 2007). The EU has identified 72 countries for privatization of water, including ACP member states and trade partners that have already experienced difficulties with privatization, such as Bolivia and South Africa (CEO, 2006). Moreover, the Commission has also targeted water sectors in 14 other 'least developed countries', in order to ensure market access in those states (CEO, 2008).

While the Commission has continued to promote water privatization (despite some opposition from the European Parliament), it must be mentioned that the privatization of drinking water has now been excluded from the GATS negotiations. In 2006, through the establishment of 'plurilateral negotiations', Australia, Canada, the European Union, Japan, Korea, Norway, Switzerland, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, and the United States presented a collective request to 22 countries concerning environmental services. In relation to water, the request stated that it 'does not address in any way water for human use (i.e. the collection, purification and distribution of natural water)' (see Plurilateral Request on Environmental Services [http://commerce.nic.in/wto\\_sub/services/Plurilateral%20Requests%20in%20Environmental%20Services.pdf](http://commerce.nic.in/wto_sub/services/Plurilateral%20Requests%20in%20Environmental%20Services.pdf)). However, it did open access for multinational corporations to the following sectors: sewage, noise abatement and cleaning services. Thus, while drinking water was explicitly excluded from GATS talks, the Commission's political position within the negotiations does not seem to demonstrate 'normative coherence' as defined above because it continues to pursue privatization in complementary sectors. In a statement concerning the EU's GATS demands, the former Trade Commissioner Mandelson explained that they 'simply aim to facilitate the opening up of these services to international operators if and when the responsible public authorities freely choose to do so, for instance through any form of public-private partnership of their choice' (Parliamentary Question, see <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2005-4659&language=EN>). No mention is made by EU officials of the core values that they include in their development cooperation strategies, thus undermining normative coherence. In fact, while the EU's position *vis-à-vis* water privatization was excluded from the GATS negotiations, it has been pursued through more traditional bilateral trade agreements.

Water privatization has, indeed, been included in EU-ACP relations as part of the EU's 'Global Strategy' (as defined by former Trade Commissioner Mandelson) through economic partnership agreements (EPA) and free trade agreements (FTA). For example, the EU-CARICOM EPA negotiations have included privatization of wastewater management and sewage services. This includes cooperation and support in the area of water-saving services. It is important to mention that some countries, such as the Dominican Republic, did not limit privatization in any way; however, other Caribbean states have included specific conditions for the privatization of water services. The Grenadines, Saint Vincent and Saint Lucia, Suriname and Belize only included privatization of sewage services and wastewater management, and only on condition of joint ventures and technology transfer (CEO, 2008).

In EU relations with other world regions, especially Eastern and Southern African (ESA), cooperation in the field of water supply has been framed as an opportunity 'of improvement of the livelihoods of the populations'. EU support in the field of water is viewed in terms of 'supporting the development of legal and regulatory frameworks' as well as 'facilitating EU-ESA partnership and joint ventures between economic operators' (EU-ESA EPA, see Interim Agreement

at <http://investmentpolicyhub.unctad.org/Download/TreatyFile/2580>). There is no mention of human rights approaches to water distribution.

Recent negotiations for free trade agreements with Latin American countries have been more complex. In EU-CAN and EU-Central America FTA negotiations, the Commission has called on those countries to ‘progressively liberalize their respective procurement markets at all levels’, including the water sector (For further reference, please see the EU-CAN and EU Central America Free Trade Agreements). In the case of the Andean Communities, this position created enough conflict for the FTA to break down at the regional level. CAN member state Bolivia (that promoted the Human Right to Water and Sanitation at the UN) withdrew from FTA negotiations with the EU because of this inclusion of water privatization in trade talks. The EU was forced to negotiate bilateral negotiations with CAN member states Colombia and Peru (CEO, 2008). While this measure did not affect the EU economically, as Colombia is a more important trade partner than Bolivia, it can be considered a political setback because the opposition to water as a human right prevented the EU from promoting inter-regional trade with the Andean Community of Nations (which is a priority for the Union), and shows the European Union in a negative political light on the international stage. Whereas the EU’s commitment to development in the field of water cannot be questioned, these development and trade strategies do cast doubts over the normative dimensions of EU development policies in the field of water. This of course addresses the issue of ‘transformation.’ How can ‘transformative development’ be achieved without normative coherence? The MDGs placed the struggle against world poverty in the centre of global political consciousness. However, development cooperation in specific sectors, such as water, remains focused on the technical/technological aspects of development and the pursuit of indicators. The notion of ‘transformative development’, which is meant to characterize the SDG agenda, should be guided by core values instead. This is the focus of the conclusion below.

## Conclusion

In his November 2014 Kapuscinski Lecture for the RISC Consortium/University of Helsinki international conference and doctoral school (Martens, 2015), Martens, Executive Director of the Global Policy Forum, focused on the need for ‘universal development’ strategies encompassing both wealthy and poor states in the post-2015 development agenda. These sentiments have also been reflected in current global debates on the SDGs, which have included political and academic calls for transformative development characterized by normative commitments to equity, justice, human security and rights. ‘Universality’ expands and links the geographic and normative scopes of sustainable development discussions.

This qualitative evolution of international development strategies, however, has been difficult to achieve. First, transformative development requires more specific definitions of guiding ideas, such as sustainable development, into policy objectives that can be operationalized and are not indicator-based. This creates difficulties in terms of maintaining cohesion amongst varied groups of actors in diverse sustainable development coalitions. While the proposed SDGs have included such goals (notably SDGs 10 and 16), they have not yet defined strategies to achieve them, or a mechanism through which to promote transformative change. This article contends that PCD could potentially be a relevant policy mechanism for the promotion of transformative development, but only when policy strategies are embedded in core democratic principles.

More importantly, true transformation needs to be based on coherent visions of development. The aforementioned section on PCD and EU water policies in the field of development has shown that, despite the EU’s impressive commitment to both PCD as a technical tool and development



cooperation as a foreign policy strategy, the lack of normative coherence has undeniably diminished its transformative power and affected the EU's development partnerships. These limits are problematic for the EU because of the way that it promotes its normative leadership in global affairs (see Afionis and Stringer, 2012). Other international organizations (such as the World Bank) and donors (such as the United States) also support privatization of water, and have neglected normative policies aimed at reinforcing the Human Right to Water and Sanitation. However, these development actors do not publicize their efforts in terms of PCD and normative commitments like the EU does. This is the reason why the EU represents a critical case where normative discourse and policy implementation need to be made more coherent. The EU should not be singled out for criticism because it merely contributes to existing convergence at the international level towards the commodification of water management. However, given its self-pronounced goal of providing normative leadership in international affairs, it is important to highlight incoherences between EU discourse and policy with the aim of reconciling them through the implementation of the SDG agenda. Already PCD has provided vital support for development cooperation policies from a technical point of view. However, normative coherence needs to be prioritized both globally and regionally for 2015 to be considered a watershed year in the international agenda for the promotion of transformative development.

## Notes

1. The Sustainable Development Goals (SDGs) are a new set of global goals replacing the MDGs, oriented towards eradicating poverty through three bottom lines: economic growth, environmental sustainability and social inclusion (Sachs, 2012). The SDGs are also known as the post-2015 development agenda.
2. This article recognizes the relevance of the sanitation aspect in development concerns. However, due to space restrictions, the authors will only focus on the water access aspect of the MDGs and the Human Right to Water and Sanitation.

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