

OVERVIEW

The Government of Kenya's commitment to uphold the right to water and sanitation is enshrined in Article 43 of the Constitution which guarantees the right of all Kenyans to clean and safe water in adequate quantities, and to reasonable standards of sanitation.

Internationally, the right to safe and clean drinking water and sanitation is recognised as a human right that is essential for the full enjoyment of life and all human rights. The right to water is part of the right to an adequate standard of living, and is inextricably linked to the rights to health, adequate housing and food¹.

Sustainable Development Goal 6 seeks to ensure safe drinking water and sanitation for all. In particular, SDG 6 aims to achieve universal and equitable access to safe and affordable drinking water by 2030.

KEY FIGURES: KENYAN POPULATION



47.5 million

Male 23.5m, Female 24.0m, Intersex 1,524
(Census 2019)

ELEMENTS OF THE RIGHT TO WATER

The right to water is defined as the right of everyone to sufficient, safe, acceptable and physically accessible and affordable water for personal and domestic uses.

Availability/sufficiency: Water supply must be sufficient and continuous for personal and domestic uses. *Standard:* 50-100 litres/person/day to meet basic needs; 20-25 litres/person/day as a minimum (without meeting all needs).

Affordability: Water, and water facilities and services, must be affordable for all – it should not reduce a person's capacity to pay for other essential goods and services. *Standard:* cost should not exceed 3% of household income, or 5% where it includes waste water collection.

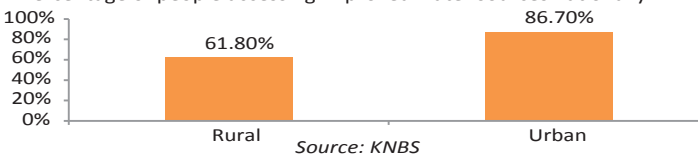
Accessibility: Water and sanitation facilities must be physically accessible and within safe reach, taking into account the needs of particular groups, including persons with disabilities, women, children and the elderly. *Standard:* water source has to be within 1km of the home and collection time should not exceed 30 minutes.

Quality & acceptability: Water must be acceptable in colour, odour and taste. It must be free from microbes and parasites, chemical substances and radiological hazards that constitute a threat to a person's health. Water must also be of an acceptable colour, odour and taste.

INEQUALITIES IN ACCESS TO WATER

A significant proportion of the population in Kenya does not have access to safe and reliable sources of drinking water (33% in the 2014 Kenya National Bureau of Statistics Economic Survey).

Percentage of people accessing improved water sources nationally

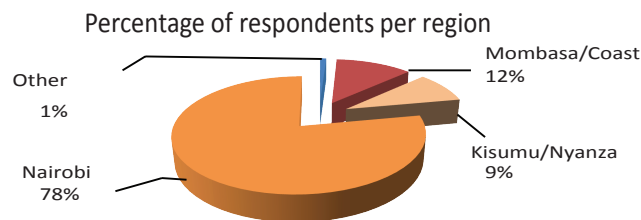


While urban areas have better access to water than rural areas, inequalities are particularly acute in informal urban settlements. Residents in urban settlements draw upon both reliable and unreliable water services from formal and informal providers. This has far reaching implications in achieving SDG 6 and also for the realization of the Kenya Vision 2030 as envisioned in the National Water Master Plan 2030.

OBJECTIVES & METHODOLOGY

The objective was to undertake a human rights assessment of the right to water in Kenya, focusing on informal urban settlements in Nairobi, and around Mombasa and Kisumu. The aim was to identify challenges and inequalities in access to and affordability of water, to inform SDG 6 implementation in Kenya and ensure no one is left behind.

In partnership with the Social Justice Centres Working Group, a household survey on access to and affordability of water was undertaken in 184 households (79% Nairobi, 12% Mombasa / Coast, 9% Kisumu / Nyanza). 67% of respondents were female and 37% were male; the majority were aged between 18 to 40 years. In addition, 21 focus group discussions were conducted in the three regions, with the participation of 139 people. An analysis of the national regulatory framework and relevant socio-economic data was also undertaken.



RESULTS & FINDINGS

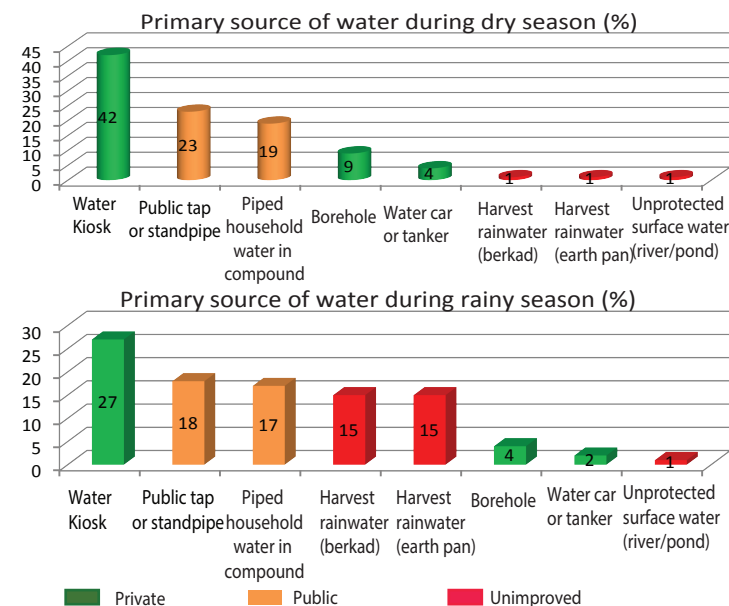
Government expenditure: 1.4% of the national Government budget was allocated to the water and sanitation sector between 2014 and 2018 (e.g. KSh 16.2b (USD 162m) in 2015/16 and KSh 31.3b (USD 314m) in 2016/17). Of the expenditure on water and sanitation, close to 92% went to development and water infrastructure projects – but the majority of these

have not been built or completed, therefore there was no concrete impact on improved access to water for the population.

The Government established the Water Sector Trust Fund to finance pro-poor water and sanitation projects in marginalised and under-served regions. The WSTF invested KSh 7.1b (USD 71m) in such projects from 2005 to 2016.

Civil society organisations contribute significantly to the water and sanitation sector in Kenya. For example, in 2015/16 alone, NGOs invested KSh 2.19b (USD 295m) in the sector, with 70% allocated to support the extension of safe water supply coverage.

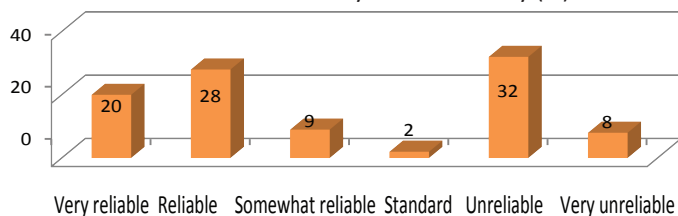
Availability/Sources of water: During the dry season, the majority of respondents (55%) rely on private water suppliers (water kiosks, boreholes and water tankers), whilst 42% use the publicly-regulated water supply (public taps/standpipes, piped household water in compound) and 2% use unimproved sources (rainwater collection, rivers or ponds). In the rainy season, 35% of respondents primarily use the publicly-regulated water supply, 33% continue to rely on private water suppliers, and 16% use unimproved sources – the increase in collection of rainwater accounts for the steep drop in the use of private water suppliers and the small decrease in the use of the publicly-regulated water supply. These findings indicate that only a minority of respondents in informal settlements have regular access to public water supply, which is regulated, and less costly.



RIGHT TO WATER IN KENYA: ASSESSMENT OF ACCESS TO WATER IN INFORMAL SETTLEMENTS

48% of respondents felt that access to clean water was reliable (28% reliable, 20% very reliable), but 40% found access to be unreliable (32% unreliable, 8% very unreliable) and 11% found it average (9% somewhat reliable, 2% standard).

Water reliability and availability (%)



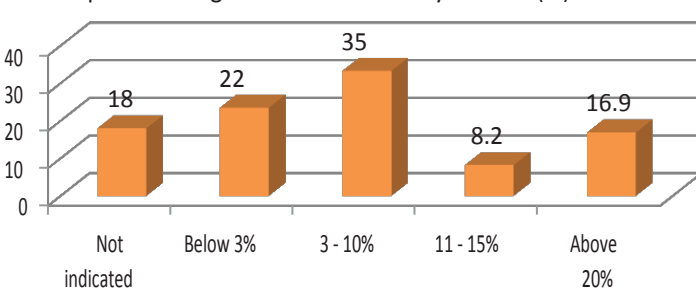
In focus group discussions, participants spoke about water rationing, and shortage of supply due to the operations of water cartels.

Accessibility: 65% of respondents took less than 30 minutes to access water, while 35% of respondents took over 30 minutes to access water. 18% of those who were responsible for collecting water were children.

In focus group discussions, participants reported that there were very few water points per area/community, so people have to travel long distances to fetch water.

Affordability: Only a minority (22%) of respondents spent less than 3% of household income on water. The majority (35%) spent between 3-10% of household income, and a significant percentage (17%) spent over 20% of household income on water.

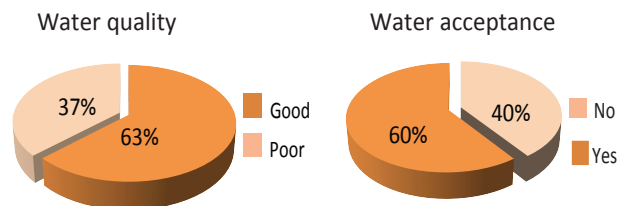
Expenditure against overall monthly income (%)



In urban areas, water commonly costs less per litre in middle class neighbourhoods (where there is piped water) than in informal settlements (where the majority rely on water vendors). For example, the price of piped water in Nairobi is in the range of KSh 34-53 per cubic metre (1000 litres), compared to KSh 10-50 for a 20 litre jerrycan in informal settlements. This means that residents in informal settlements pay almost 50 times the price of water per litre than middle class households.

Quality and acceptability: 63% of respondents found water quality to be good, but 37% found quality to be poor. 60% felt water was safe and acceptable, while 40% felt it was not fit for consumption.

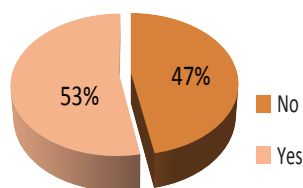
Water quality and water acceptance (%)



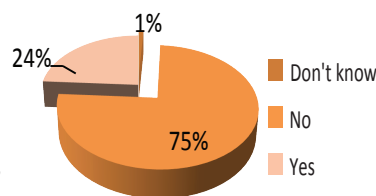
However, in focus group discussions, participants indicated the high incidence of water-borne diseases such as cholera in their communities, due to the poor condition of sewerage systems, and contamination as a result of sewage and water lines running very close together.

Security: The majority of respondents (76%) did not identify security-related issues related to the collection of water, but 24% said security was an issue of concern.

Impacts of access to water on livelihood opportunities and health (%)



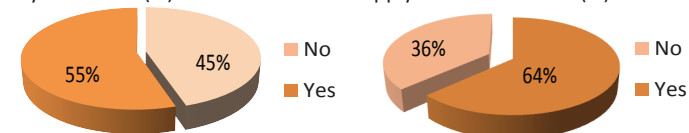
Concerns on security and protection (%)



In focus group discussions, however, numerous security-related concerns were raised. Women reported insecurity as they collected water at night, often over long distances, and having to pay people to provide security for them during water collection after dark. Participants also reported increased crime as people left their homes unattended- while going long distances to collect water. Participants also spoke of harassment and intimidation by land owners and cartels, who mobilised youth to intimidate community members.

Awareness: 55% of respondents were aware of their right to water as Kenyan citizens, but 45% were not aware of this right. 64% of respondents were aware of the Government's responsibility to supply water to citizens, while 36% were unaware.

Awareness of right to water as Kenyan citizens (%)



CHALLENGES

Focus group discussions identified a number of challenges affecting access to clean and affordable water, including:

- Vandalism and theft of water pipes, causing water shortages;
- Destruction of water pipes during road construction;
- Water cartels and corrupt practices affecting water supply and cost;
- Limited water points available in informal settlements;
- Poor state of water and sanitation systems, leading to water-borne diseases;

RECOMMENDATIONS

• **Availability & accessibility:** National and county governments should invest in extending the availability and accessibility of public water supply to informal settlements and vulnerable communities, to fulfil their obligations to ensure the right to clean and safe water in adequate quantities.

• **Affordability:** National and county governments should put in place regulatory frameworks to ensure the affordability of safe drinking water for poorer communities and households, and address corrupt practices that affect affordability and supply.

• **Quality:** National and county governments should invest in water and sanitation infrastructure in informal settlements and vulnerable communities, noting the close correlation between the rights to water and sanitation, and the right to health.

• **Participation:** Ensure the active and meaningful participation of communities in decision-making to improve water service delivery, accessibility, affordability, quality and security for community members.

• **SDG 6 tracking:** Monitor the implementation of SDG 6 and progress against the goal of achieving universal and equitable access to safe and affordable drinking water for all in Kenya, with particular attention to addressing inequalities in access to water.