

THE RIGHT TO WATER

WHAT IT IS ?

AND

HOW TO IMPLEMENT IT ?

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THE CASE OF ARGENTINA

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SUMMARY

The present paper is intended to describe the situation of the Argentine population with respect to the Right to Water.

This study, consistent with our previous research and with the whole range of studies conducted by serious researchers and scientific groups; shows a deep gap between the specific existing legislation regulating the matter and its actual enforcement.

Ever since its independence in 1816 and throughout its history, Argentina has been characterized to have a legal and regulatory framework in the field of civil rights protection. containing the most modern concepts of the time.

Social rights acquired constitutional status in the mid XXth century, while environmental rights were incorporated in 1994.

The implementation of the Right to Drinking Water is strongly fragmented in the country, since given its federal organization, Provinces are proprietary owners of the resource in their respective territories, and are responsible for supplying drinking water and sanitation services.

The provinces, in turn, have their respective Municipal legislations, creating an additional instance of decentralization. Hence, the study reflects the multiplicity of regulatory levels, institutions with decision-making capacity, jurisdictions, control agencies and public policies.

This legal complexity, far from better ensuring the right to water compliance, has simply portrayed the system of inequalities that characterizes the country.

In general, in highly affluent urban areas of capital cities, 98% of the inhabitants are served by the network of drinking water and sewerage, while the city belts continue to have severe deficits in services, they are not aware of their rights, they are not familiarized with the regulations that protect them, and the drinking water and sanitation services are not necessarily perceived as a priority by the extremely poor populations, given the fact that have more pressing needs, such as finding food to survive.

The lack of a State policy aimed at solving the country's development problems has induced a systematic scattering and duplication of efforts, meager consistency in implementing a core conceptual structure, such as access to water and sanitation, and the intermittent discontinuation of efforts in this regard.

Politization and the lack of highly skilled technical staff at the management level in control agencies, turn them inefficient and consequently, they are far from fulfilling their function ensuring proper service to the population.

All these abovementioned considerations are applicable to water resources pollution. To date, the impact of industrial wastes in water flows, the unrestricted use of agrichemicals, the effects of the mining industry in particular, the systematic drilling of the Puelche and Guaraní Aquifers in order to obtain better water quality disregarding proper controls to preserve the resource have failed to elicit any consistent relevant actions resulting in any changes in the current situation. The country has the legal regulations required to prevent pollution, as well as the principles establishing mandatory redressing and/or compensation for damages.

The Argentine population has endured a process of pauperization resulting from the model implemented in the 90's, and particularly because the State almost totally abandoned its role of ensuring the inclusion of the poorest sectors, disrupting the society's traditional social mobility and its large middle class.

INTRODUCTION

The Argentine's Right to Water Case Study is especially helpful when trying to understand the status of that right in Latin America's Southern Cone.

It is particularly relevant when analyzing the impact of the wave of public utilities privatizations of the 90's, since, contrary to Uruguay, Argentina fully adhered to this model with no bias whatsoever.

Current debates about the adequate instruments and pathways to fulfill the Millennium Goals for 2015 force us to analyze the countries' legal and institutional frameworks, as well as its public policies and sustainability. This Study will undoubtedly contribute to show some similarities in the region; however, it will also reveal deep differences both with respect to Uruguay and Chile. In the case of Uruguay, the difference results from the fact that water supply and sanitation services are under State control, based on a strong conviction that it is necessary to have a strong state presence in matters involving the most vulnerable sectors and in the case of Chile due to the existence of an efficient system of Control Agencies. The Argentine case shall portray the situation of a country with a strong downsizing of the State, a lack of an effective implementation of the legislation aimed at protecting the population's right to water and the existence of highly politicized and ineffective Control Agencies, notwithstanding the existence of a legislation that quite adequately provides for the right to water and sanitation.

It is on the basis of the current situation and the awareness of the country's strengths and weaknesses on the issue, that we will be able to improve the critical pathways which are required to meet the Millennium Goals.

NATIONAL CONTEXT

Geographical Location

Argentina is located in the southern end of South America. The country ranks second in size in South America and eighth in the world. Its continental surface covers 2,791,810 square kilometers, including the Malvinas Islands, other South Atlantic islands and a sector of Antarctica.

Including the Antarctic sector, the total surface area is 3,761,274 square kilometers. It extends 3,800 Km from North to South and 1,425 km from East to West. Its borders are Bolivia and Paraguay to the North, Brazil, Uruguay and the Atlantic Ocean to the east, and the Atlantic Ocean and Chile to the west and south.

Relief

The Cordillera de los Andes, the great South American mountain range system, lies to the west. In it we may find the Aconcagua, 6,959 m., the second highest peak in the world after the Himalaya. Other high peaks are: Pissis (6882 m), Ojos del Salado (6879 m), Bonete Chico (6759 m) and Llullaillaco (6739 m).

Several mountain ranges extend to the east of the Andes, such as the Eastern Mountain Range (Cordillera Oriental) and the Subandean Ranges to the north, the Pampean Sierras to the north and

center, stretching from the Aconquija to the Córdoba and San Luis sierras, and the Buenos Aires sierra systems like Tandilia and Ventania.

The center and east of Argentina (except for the above-mentioned ranges parallel to the Andes) is mostly a vast plain, presenting some undulations.

Climate and Regions

Argentina has exceptional natural landscapes, since it has a very diverse territory, including mountains, plateaux and plains, and all sorts of climates. Climate and landscapes vary enormously from one region to another.

NORTHEAST: This region is characterized by a temperate climate, multicolored mountains, the Puna High Plateau, irregular landscapes and valleys, and the typical settlements, of great historic relevance.

GRAN CHACO: Mainly dedicated to forestry, with subtropical forests, wetlands and lagoons.

MESOPOTAMIA: With its subtropical climate in the north and more temperate climate in the south, the region provides habitat to a very rich wildlife. It is run by large rivers, low hills, lagoons and wetlands.

CUYO: Typically a mountainous region (including Mt. Aconcagua); its climate is temperate and arid. However, manmade irrigation has been able to turn it into an ideal region for winemaking.

CENTRAL MOUNTAIN RANGES: The sierras in the center of Córdoba and San Luis have a very mild dry and temperate climate, with many rivers and artificial water reservoirs.

HUMID PAMPAS: With its temperate climate, this region is one of the richest in the country (and one of the richest in the world) ideal for agriculture and cattle grazing. The plains are crossed by the Tandil and Ventana mountain ranges only. Vast and popular beaches stretch to the east on the Atlantic Ocean.

PATAGONIA: This is the largest region. Its climate is colder (especially in the south); the western landscape is mainly mountainous, and crossed by spectacular forests, lakes and glaciers; the center of the region presents an arid plateau, and in the east we find sprawling beaches with a rich sea fauna worth watching. The southern tip of this region is the southernmost point in the world.

Population

Argentina has a low demographic density, its population of 36,223,947 (2001 Census) is mainly located in urban centers.

Unlike most Latin American countries, 95 % of its population is Caucasian, 85% are European descendents (mainly Italian and Spanish). Argentina has a relatively small number of mestizos (descending from European and indigenous natives) accounting for only 4.5 %; and the pure indigenous natives (mapuches, collas, tobas, maticos, chiriguano, etc.) barely represent 0.5 % of the whole population.

About half the population lives in the Federal District and in the neighbouring area of Gran Buenos Aires. The urban population is the largest, accounting for 88 %, while the rural population represents 22%. The population density is 9.63 inhabitants per square kilometers, with a 1.5 % annual growth.

Main Cities

BUENOS AIRES: 11,453,725 (The Federal Capital has 2,776,138 inhabitants)

CORDOBA: 1,368,109

ROSARIO: 1,159,004

MENDOZA: 846,904

SAN MIGUEL DE TUCUMAN: 736,018

LA PLATA: 520,647

MAR DEL PLATA: 519,707

SALTA: 367,099

Language

Spanish is the official language, and it is spoken by the entire population. English, French and Italian are to a certain extent spoken in the country. Guaraní and other indigenous languages are also spoken by minorities in certain areas.

Culture

Argentine cultural roots are predominantly European, and that is reflected in its architecture, music, literature and life style.

Its major cities have an intense cultural activity, offering a generous variety of festivals, exhibitions, movie theatres, theatres, recitals and concerts.

Buenos Aires has about 100 movie theatres and 90 theatres that feature a broad range of shows and plays, making the city one of the busiest in Latin America in that respect.

National and international cultural events are constantly being exhibited at cultural centers like Borges, Recoleta and General San Martín.

The Colón Theatre is among the best three lyric halls worldwide; it offers an outstanding architecture and perfect acoustics, attracting the world's most prominent figures of classical music, ballet and opera.

Other remarkable theatres include the Nacional Cervantes and Municipal Gral. San Martín.

Prestigious art galleries continuously display valuable painting and sculpture exhibitions in the country's main cities.

World famous Tango is the most characteristic music in Buenos Aires, while folklore differs in style and rhythm in the various regions of the interior.

The asado (barbecued beef) is the most typical food, together with the empanadas (a kind of individual pies filled with ground beef and various other fillings), *tamales*, *humita* and *locro*. In the famous Argentine restaurants "parrillas" you may taste premium grilled beef.

However, the important immigration flow that settled in the country gave rise to a vast and varied international cuisine: Spanish, Italian, French, German, Scandinavian, Greek, British, Swiss, Hungarian, Dutch, Chilean, Mexican, Basque, Arab, Jew, Russian, Ukranian, Chinese, Japanese and Thai.

Fast food stores are available at all shopping centers.

The typical beverage is an infusion called "*mate*".

The quality of Argentine beef and wines is acknowledged worldwide, and the nouvelle Argentine cuisine has reached world class, and is represented by outstanding chefs.

WATER AND SANITATION LEGAL FRAMEWORK

National Context

Argentina has adopted a representative, republican and federal form of government. It is comprised of 23 provinces (with nearly two thousand municipalities) and the Autonomous City of Buenos Aires.

In accordance with the Magna Carta, the provinces retain all powers not delegated by this Constitution to the Federal Government, and those which have been expressly reserved by special agreements when they were initially incorporated.

Following the 1994 constitutional reform, it was been expressly established that the provinces had the original dominion over the natural resources existing within their territory. This implies that they have the power to regulate the relationships arising from their use, defence and conservation.

In matters directly or indirectly related with water resources, the Constitution states that the Nation has jurisdiction over navigation, inter-provincial and international commerce, international relationships, signing of international treaties promoting the prosperity of the country and the development and welfare of all the provinces. This has warranted national regulations with regard some uses of water not related to navigation.

In environmental matters, Article 41 of the 1994 amendment grants the Nation the power to pass regulations containing the minimum principles for protection, while it empowers the provinces to complement those principles, without altering the local jurisdictions.

Although there is no National Water Act, the current national legislation is made up of a set of regulations containing provisions that are directly or indirectly related with the subject. The most outstanding of such norms are the Federal Environmental Agreement, Law N° 25688, which regulates the Water Environmental Management System, General Environmental Act N° 25675, Decree 999/92, the Civil Code, the Commercial Procedures Code, the Mining Code, the Criminal Code and federal laws dealing with energy, navigation, transportation and ports, among other issues.

Law 25688 has not been regulated and there is a pending project for its amendment. It has been the object of widespread criticism and even the filing of legal proceedings claiming it should be declared unconstitutional.

Decree 999/92 approves the administrative regulations that regulate the different aspects of the public services for the supply of drinking water and sewerage under the competence of Obras Sanitarias de La Nación. It provides that the activities of obtaining, purifying, transporting, distributing and commercialising of drinking water and the collection, treatment, disposal of and commercialisation of sewerage, including industrial effluents that are allowed to be put into the public system, are considered a public service.

According to the Civil Code, waters flowing in natural beds and all other waters that either are apt or may become apt for usage of general interest, including underground waters, are public assets that belong to the State, notwithstanding the regular exercise of the right of the owners of the property to collect water for their own purposes and subject to the terms of the regulations. Consequently, water belongs to private individuals only in the case of water masses that start and finish within a single private property, or in the case of rainwater drains dammed in natural or artificial containers by

individuals to use it for their own benefit. In every case they must be waters which, as a result of their condition or volume, are not sufficient to satisfy community uses, since, even if the water is within a private estate, it shall be considered State property, without prejudice to their potential use by the inhabitants individually considered (for drinking, hygiene, watering, etc).

On the other hand, since May 2005, Parliament has been considering a bill stating that the "Guidelines of Water Policy for the Argentine Republic and other related issues" should be adopted as part of the National Policy Guidelines. These principles were adopted by a Federal Agreement on Water that sets the foundations for a rational national water policy that takes all sectors into account, and agreed within the framework of a consensual federalism. In exercising the concurrent powers of the provinces and the nation, this Agreement is able to integrate the policy principles that are part of the social and environmental water-related aspects to the productive activities of society, incorporating basic principles of organisation, management and economy of the use of water resources, together with principles for the protection of this resource.

INSTITUTIONAL FRAMEWORK OF WATER AND SANITATION SERVICES

At national level, the controlling authority in the matter is the Under Secretariat for Water Resources, which is dependant on the Ministry for Federal Planning, Public Investment and Services (Ministry of Public Works).

The Under Secretariat assists the Under Secretary of Public Works in supervising the Three Party Agency for Sanitation Works and Services (ETOSS); the National Agency for Sanitation and Water Works (ENOHSA) and the National Water Institute (INA).

In 1993, the drinking water and sewerage services of the Autonomous City of Buenos Aires and of thirteen areas of the province of Buenos Aires were privatised. Until then the provision of these services had been undertaken by the state-owned company Obras Sanitarias de la Nación.

On 1st May of that year, the responsibility for those services was transferred to the company Aguas Argentinas S.A. The transfer included a contract for concession for a period of thirty years. Law 23696 on the Reform of the State and National Decree 999/92 were the basis to establish the regulatory framework for the provision of water and sewerage services. The Concession Contract, and in so far as it is applicable, the organic law for Obras Sanitarias de la Nación, constitute the legal framework within which the relationships emanating from the concession must be undertaken.

Three Party Agency for Sanitation Works and Services:

An agency called ETOSS was created on the basis of the above-mentioned norms, as the regulatory body for the provision of drinking water and sewerage within the area of the Federal Capital and the 17 areas of the Province of Buenos Aires.

It has law-enforcement capacity, and is in charge of regulating and controlling the provision of water and sewerage public services, including control of water pollution in so far as this is part of the general control and fiscal control of the concessionaire as the contaminating agent.

National Agency for Water Sanitation Works ("Ente Nacional de Obras Hídricas de Saneamiento")

As is the case with ETOSS, ENOHSA is a decentralized administrative agency whose mission is to organise, manage and execute infrastructure programmes which derive from national policies for the drinking water and basic sewerage sector, covering the entire national territory.

This agency's function is to understand, harmonize and coordinate the strategies and actions developed by provinces and municipalities, be they public or private, to ensure they target the same objective and that they tend to promote: a) the expansion and efficient operation of services; b) their

regulation and control, preserving the balance between rights and obligations of the system holders, users and suppliers, and: c) the integration and participation of public and private companies, as well as cooperatives, community organizations and workers engaged in service management activities and financing their optimization and growth in terms of sustainability and efficiency.

The National Water Institute ("El Instituto Nacional del Agua")

INA, which follows up the work initiated in 1973 by the National Institute of Water Sciences and Technology, is an agency that depends on the Under Secretariat for Water Resources. Its aim is to meet the requirements for the study, research, technological development and provision of specialised services in the area of knowledge, use, control and preservation of water, with a view to implementing and developing the national water policy.

Provincial System

As a corollary to the constitutional premise by which the provinces are granted jurisdiction over their natural resources, currently each province has its own decentralised administrative agencies and control bodies established in accordance with the laws passed to that effect. There is usually an administrative body, which is dependant on a Ministry in charge of all the questions relating to water policy, and we also find Autonomous Bodies, created by a special law to control local water operations.

SITUATION OF WATER SUPPLY AND SANITATION SERVICES

Since 1870, Argentina had one single state-owned water and sanitation utility, Obras Sanitarias de la Nación. This state-owned company used to have the monopoly of drinking water supply and sanitation services until 1980, when the military government transferred the service to the provinces, leaving OSN as the water and sanitation supplier only for the Federal Capital and 13 districts of the Gran Buenos Aires.

Since 1980 there were several water supply and sanitation systems coexisting in the country: run by municipalities, provinces, cooperatives, regional systems, etc. This change represented the transition between the existence of one single state-owned company (OSN) to the co-existence of 161 water and environmental sanitation systems throughout the country.

There was another transition that took place in the 90s, involving the privatizations of public utilities, including water supply and sanitation. A significant number of foreign multinational companies were awarded the bids for providing those services in the country's major urban centres. The objectives indicated in order to proceed with the privatization of the water and sanitation services, were to improve the service, to expand and modernize the networks and to extend those services to the poorest sectors of society. The results of such a policy are highly controversial and indeed, in many cases they have been disappointing both for the population and the companies themselves, entailing huge political, economical and social costs, many of which remain unsolved.

Sixty-five per cent of the population is supplied within the framework of the concession zones assigned to private companies, while 35% remains in the hands of the public sector. This universe includes 65% of the population which receives joint public and private drinking water services, and 45% receiving sanitation services. The rest of the population drinks water from polluted wells, untreated water sources or water obtained from clandestine connections to water networks nearby. With regards to sanitation, the unconnected sectors use latrines or cesspools, which quickly permeate to the underground water layers, polluting them; these wells also tend to overflow, generating extremely vulnerable situations for those populations' health.

The populations most exposed to the lack of water and sanitation networks are those dwelling in the periphery of the major capitals, being the Buenos Aires suburban belt one of the most important populations. The problem is not limited to the lack of network expansion to provide services to the population, but there are also severe problems resulting from the illegal status and lack of land ownership conditions at irregular settlements at shanty towns or “villas miseria”. Water and sanitation services at these settlements were permanently disregarded both by the public sector (trying to prevent legitimization of illegal intruders), and by the privatized companies, even if those populations were included within their coverage area. Please, refer to the second part of this study “Case Study: Buenos Aires Metropolitan Area”.

There are differences among the population of impoverished urban and rural areas. The latter are supplied drinking water mainly from wells and sanitation is based on latrines. Control of the water sources and the maintenance of cesspools by provinces or municipalities are very scarce. There is a direct relationship between the rural inhabitants’ economic status and education and the hazardous conditions they are exposed to with regard this issue.

The most significant problems related to water quality faced by sectors not connected to the drinking water network are general and similar to those seen in other regions in Latin America: the marginal populations of the urban areas are affected by industrial pollution and the lack of sanitation. There are important outbreaks of diseases being child diarrhoea, hepatitis and to a lesser extent, meningitis, and the most relevant epidemiological issues. With regards to the industrial pollution, nitrates, lead, chrome and arsenic rank among the most frequent pollutants. The River Plate also shows significant PCB levels.

The Province of Córdoba has an important endemic natural arsenic pollution of underground waters, particularly in the areas with the greatest soybean production (southeast). As a result, drinkable water must be used for all purposes, including cleaning of public places, leading to a very significant overuse, and its ensuing cost.

Damming of water sources with very low flow volumes is done during seasons with a great volume reduction, changing the regimen from lotic to lentic, and increasing eutrophization.

These processes are quite frequent in the Del Plata Basin, and cattle breeding contributes to the region’s pollution, since cattle manure reaches the water sources causing the development of algae and increasing eutrophization.

Nitrates are present at much higher levels than those compatible with human health in the whole Del Plata Basin, being the impact especially significant near Buenos Aires, Santa Fe, Rosario and Posadas.

Funding

To date, water and sanitation have been financed by the public sector, through IADB and WB loans through the private sector essentially with “project financing” type models, in many cases borrowing money from international lending institutions at low rates.

The estimated amount of investment required in Argentina to meet the Millennium Goals in 2015 is 350,000 million dollars annually. This gives an idea of the difficulties of meeting the Goals for that date.

With regards fees, these are set as stipulated by each Province, and they do not usually reflect the economic value of water.

In the rural context, being farming the greatest consumer, the fee seeks to cover the water capture and distribution costs, setting them on the basis of the square meters of the land, and not on the basis of the actual consumption. This typically yields a low mean rate that acts as an indirect subsidy to agriculture.

There is also a financing mechanism for the future recipients of the water and sewerage works, through the contributions of the house owners. This modality, on itself or as a complement of other sources of resources, has been used in several municipalities in the country.

LOCAL CONTEXT: THE CASE OF THE AUTONOMOUS CITY OF BUENOS AIRES AND THE METROPOLITAN AREA

The metropolitan area of Buenos Aires has a population of 9.2 million people. The City and its Metropolitan Area (Buenos Aires neighbouring belt) was historically supplied by Obras Sanitarias de la Nación.

The privatization process granted the concession of the zone (the largest in the country) to the Company Aguas Argentinas, whose major partner is Suez, the French company.

It may well be that the still pending resolution of this case, probably the most conflictive privatization in Argentina's history, may lay down a precedent on all the public utility concessions granted in Argentina.

When the concession was granted, the city of Buenos Aires itself already had the infrastructure works that OSN used to supply the population with water and sanitation services. On the contrary, the neighbouring belt had (and continues to have) vast sectors with no connection to basic services. The populations' profiles also differ significantly, since the poorest sectors live in this area, and the percentage of people with no water and sanitation infrastructure in some municipalities exceeds 50%.

The objective of the concession had to do with two essential issues: a) improving the quality of service, b) extending the network to poor sectors. The concessionaire was granted a 30-year concession and committed itself to execute an investment plan, and agreed upon the fees *ab initio*. The agency in charge of controlling compliance with the terms of the concession is the Three Party Agency for Public Services and Works (ETOSS).

The financing system actually adopted by Aguas Argentinas was the "project financing" system, borrowing a series of loans from the international agencies on the basis of an exchange policy pegging the Argentine peso to the US dollar, as fixed by the Argentine administration by law.

It is not our intention to challenge the contract terms here, since the government selected AA's proposal at that time as the one that best met the conditions established for the international tender.

It is also worth highlighting that the economic model applied in Argentina at the time promoted total liberalization, market economy at any cost and State downsizing, both as regards its span and its interference balancing inequalities and opportunities.

Another important characteristic to consider is that not only was the State downsized, but also, instead of reinforcing and re-qualifying the staff of the Control Agencies, they became "interesting political positions", and in the best of the cases, they failed to do their job.

The fees system was defined with a K value (arbitrarily defined throughout the country), considering the zone coefficient, the number of square meters constructed, the square meters of the estate and the quality of construction. This fee composition was applied to the entire population except for those users that had micrometers, i.e., 80% of the population in the concession area. The remaining 20%, who had micrometers, was applied rates consisting of 50% of the basic rate, plus a variable component tied to consumption. Aguas Argentinas gets its water supply from the Río de la Plata and the quality standards applied are those admitted by the WHO.

The Company's investments were initially oriented toward improving service to the sectors already connected and gradually expanding the network following criteria more oriented to the concept of the "economic value of water", criteria that were by the way shared and supported by the concessionaire.

The water service of Buenos Aires City improved both quantitatively and qualitatively; there was also a remarkable improvement of public information about works and some specific and sporadic problems related to quality or supply in the capital.

The core problem resulted from the State's retraction to guarantee proper and timely provision of services to the poorest municipalities in the neighbouring belt.

One of the worst hurdles the concession and the country had to face was the 2001 crisis, which, among other issues, did away with the exchange rate policy that pegged the Argentine peso to the US dollar, rendering AA's finance plan impossible.

Whilst this is a simplification of the problem, we are here leaving aside all ideological considerations on privatization of public services in Argentina, since this is not the objective of this work, and because we believe that we will better contribute to solve these conflicts by seeking consensus and reformulation of situations of inequality.

Much of the debt incurred by AA to develop this project was foreign, and after the economic crisis, currency conditions changed and the Company could no longer meet the original investment plan, which originated serious difficulties with the country's administration, who claimed that the contract was still to be respected.

Under this situation, we have the coexistence of the concession of water and sanitation services affecting more than 9 million people with a legal contractual framework that succumbed to a situation of force majeure, as was the crisis of 2001, with a dismantled and absent state that was unable to operate on the principle of subsidiarity, with a state that failed to convey the information transparently so that the people could know the terms of the concession, specific rights of the people within its framework, with reference to the time they had to wait to have access to services, and regarding the order and appropriateness of the investments to be expected. Authorities also failed to provide simple, clear and timely information as to how the Argentine default of 2001 would affect the actual undertaking and the investments in water and sanitation.

Once the most turbulent moments of the crisis had passed, the current Argentine administration refocuses on the lack of accountability of the state and takes citizen participation as a core element for development, a criterion that had not been present in the privatization process.

In spite of the tense situation with the privatised company, actually related to management, supply and administration, a new programme was implemented. This programme was highly compatible with Sustainable Development and the Right of access to drinking water and sanitation: Water + Work. The objective of this programme was "to minimize the sanitary risk of the population lacking drinking water services, through the construction of works to expand the service...and it was implemented starting from the Partido de la Matanza (an AMBA zone)". In this project, and by way of the Ministry for Federal Planning, Public Investments and Services (Secretaría de Obras Públicas), the national government established synergies between the competent agencies (ENHOSA, ETOSS, INAES, MUNICIPALIDAD DE LA MATANZA), the civil society and the concessionaire company to provide network services to 400,000 inhabitants of that locality. It was financed with a loan from the World Bank that had been agreed prior to the default; the civil society formed cooperatives that were responsible for actually having the users do the work, and as they were mostly underprivileged populations the people had the additional benefit of having a job. The Municipality implemented the project as the local authority and Aguas Argentinas contributed with the know-how and trained the people in the cooperatives.

Due to the aforementioned economic difficulties and as it was impossible to extend the network to that area of the neighbouring belt, the source of drinking water of this network is based on a series of perforations approximately 90 meters deep, until tapping the Puelche aquifer, and establishing the connection to the network from this source of water.

This is a pro-active model of cooperation between the different stakeholders, in the framework of a great economic crisis, which produced a viable and efficient means to guarantee the right to water and sanitation. The administration and management of the system will remain in the hands of the concessionaire, once the infrastructure works are completed.

In addition to ensuring the quality of service, the concessionaire and the State's controlling agencies must, from now on, guarantee that the aquifer is not polluted, through proper management and maintenance of the drills.

This model is being replicated in different areas of the country with different stakeholders, both public and private.

THE RIGHT TO WATER AND SANITATION

General Issue

The National Constitution does not explicitly convey neither the right of all inhabitants to sufficient, safe, acceptable, physically accessible and affordable water nor the right to sanitation. However, as a result of the new social constitutionalism, as provided for in Articles 41 and 42, this right has been considered within the terms of the rational use of natural resources, the protection of health, security, adequate and reliable information and on the basis of an equitable and dignified treatment of all inhabitants, the terms of which are ratified and adhered to by Article 75, sections 22, 23 and 24 of the National Charter.

Decree 999/92 provides the regulatory framework of the different aspects of the public services for the provision of drinking water and sanitation and emphasizes that the service must be provided in a compulsory manner, subject to conditions which ensure its continuity, regularity, quality and availability, resulting in a service which is efficient for the users and is environmentally friendly.

Law N° 24.583, which provides for the incorporation of ENOHSA, establishes in its objectives, the upgrading and the efficient operation of the services, ensuring universal access, the rational use of this environmental resource, the quality of the products and services, and the enforcement of fair and equitable fees, which may allow for the sustainability and upgrading of the systems.

Notwithstanding that established in the concession contracts, granted by the provinces within the area of the Federal Capital and part of the province of Buenos Aires, the contract with Aguas Argentinas S.A. provides the obligation that the concession holder has to extend, maintain and update the external networks, to connect them and provide the service for common usage to all inhabited premises, whether residential or not, found in the areas already served and in those under expansion. This obligation is also applicable to the provision of the drinking water which used in the manufacture of goods, provided that this is always technically viable, without negatively compromising the provision to other users. In addition, it guarantees that water shall provide for free and in the conditions necessary for fire hydrants.

The Federal Agreement on Water of 2003, in its Guidelines on Water Policy and under the heading "Drinking Water and Sanitation as a Basic Human Right", provides that issues on drinking water and sanitation shall become part of the policies on the management of water resources and availability of permanent financial resources for the improvement and extension of the provision of drinking water to the whole urban and rural population. Under the heading "Equitable Use of Water", it establishes that

all inhabitants of a river basin have the right to use said waters to meet their basic drinking, food, health and development needs. The promotion by the State of the principle of equitable use of water, expresses itself by ensuring that all urban and rural populations have access to the basic services of drinking water and sanitation and by allocating water resources to projects of social interest and by promoting the other potential uses of water.

If so, is an authority identified as responsible to ensure implementation of the Right to Water and Sanitation? Are individual and collective responsibilities defined, and the necessary financial and human resources provided to guarantee its implementation? If so, is the right enforceable in courts or other bodies?

At national level, the authority responsible for ensuring implementation of the right to water and sanitation is the Under-Secretariat for Water Resources, which depends on the Ministry of Federal Planning, Public Investment and Services. ETOSS, which in turn depends on the Under-Secretariat, is the body directly responsible in the Federal District and in 17 districts of the Province of Buenos Aires, which in turn acts in coordination with the provincial authorities.

At provincial level, each one of the provinces has an administrative body responsible for ensuring the implementation of the right to water and sanitation. By way of example we can highlight the following cases: in the province of Buenos Aires, the Regulador del Agua Bonaerense; in the province of Chaco, the Administración Provincial del Agua de Chaco; in the province of Río Negro, the Departamento Provincial de Aguas de Río Negro; and in the Province of Santa Fe, the Ente Regulador de Servicios Sanitarios de Santa Fe.

ETOSS finances its budget with 2.67 per cent of each bill paid by the users. It does not receive funds from the National Treasury and there exists a Trust Fund for works financing, approved by (Provision N° 1/03) the Under-Secretariat for Water Resources.

Notwithstanding that provided for in the concession contracts granted by the provinces and the financing plans thereof, within the territorial area under the control of ETOSS, the concession contract with Aguas Argentinas S.A establishes that this company must implement a Plan for Upgrading and Expansion of the Service. This plan identifies the works and actions needed to reach the service standards required and to ensure maintenance, upgradings, performance, operation and expansion to all the Area under the concession. On the other hand, subject to the control of the same body and with the participation of the Municipalities, there is another Plan for underprivileged areas in which materials are provided together with community work. The goal of the Plan is to reduce the drinking water tariff by reducing the costs of the network expansion.

The right is enforceable and each provincial jurisdiction has its own particular system. ETOSS has provided for a mechanism for bringing legal action, under resolutions 83/98 and 52/99 within its region of coverage. The right is also enforceable in the court system by way of an expedited procedure which calls for the protection of collective rights. The proceedings will be explained in the chapter "Justiciability".

Right to Water expressly contained in treaties, declarations or resolutions. General Comment No. 15, paragraph. 4. Is the Right to sufficient, safe, acceptable, physically accessible and affordable Water and Sanitation expressly contained in treaties, declarations, resolutions or other official documents?

The right to sufficient, acceptable, safe, physically accessible and affordable water and to sanitation services are provided for in some of the International Treaties currently in force in Argentina. These Treaties are: 1) The American Declaration of Human Rights and Duties, 2) The Universal

Declaration of Human Rights and 3) International Covenant on Economic, Social and Cultural Rights. These International Treaties are of utmost importance for our legal order, because, since the Constitutional amendment of 1994, they hold constitutional status. This means that the provisions included in these treaties are part of the “Argentine constitutional framework.”

The American Declaration of Human Rights and Duties

The right to water and sanitation is provided for in Article XI on the preservation of health and well-being. It establishes specifically that every individual has the right to health protection by means of sanitary and social policies on food, clothing, housing and medical assistance, in accordance with public and community resources .

The Universal Declaration of Human Rights

In this case, the rights provided for are referred to even more overtly. Article 25 of the Declaration establishes the right of every person to a standard of living, adequate for the health and well-being of himself and his family including food, clothing, housing and medical care and necessary social services.

International Covenant on Economic, Social and Cultural Rights

Comment No. 15 on the Right to Water, adopted by the Committee on Economic, Social and Cultural Rights of the United Nations, in November 2002, provides a framework to the state parties for the construction of Articles 11 (first paragraph) and 12 of the International Covenant on Economic, Social and Cultural Rights. In accordance with comment No. 15, the right of every person to an adequate standard of living for himself and his family and the right of every person to enjoy the highest possible level of physical and mental health, must be construed in the sense of encompassing the right to sufficient, safe, acceptable, physically and economically affordable water and sanitation.

NATIONAL STRATEGY AND PLAN OF ACTION

General Comment No. 15, paragraph. 17, 26, 37 (f)

Is there a national plan of action for universal delivery of water and sanitation? If so, is an authority identified as responsible to ensure universal delivery? Are individual and collective responsibilities defined and the necessary (financial and human) means provided to guarantee universal delivery? If so, is a time-frame specified? What measures are taken to enhance financing of investments and management of service provision at national, municipal and communal level?

The law ruling the Environmental Water Management System establishes that the competent national authority must draft and update the National Plan for the preservation, usage and rational use of water, which, together with its amendments, must be approved under a law passed by the National Congress. The plan must include, at least, the necessary measures to coordinate the activities in the different river basins.

As aforementioned, this law has not been passed yet. However, the present National Government has produced a document based on the Millennium Development Goals of the United Nations. This represents a major breakthrough, but in reality it would be operating within an institutional framework with deficiencies in the jurisdictional coordination (in natural resources matters) between the National Government and the Provinces.

The goal is to ensure, along with many other objectives, a sustainable environment by reducing, between 1990 and 2015, by 2/3 the proportion of the population without access to drinking water and without access to basic sanitation. By submitting the Report on the Millennium Development Goals and Targets for Argentina, the President of the Nation, Dr. Nestor Kirchner, becomes one of the first leaders in the region willing to undertake policies for human development.

This goal indicates that the current population with access to drinking water is 29.5 million and by 2015 it is estimated that the coverage shall be 38 million people (almost the whole population) with a total investment of 2 billion pesos. Likewise, the current population with access to sewerage is 15.9 million people and for 2015 it is estimated that the coverage shall be 32 million people, with a total investment of 6.5 billion pesos.

One of the means to attain this goal is targeting cooperation mechanisms with the Secretariat of Agriculture, the Environment and Sustainable Development, and also by way of underwriting agreements between the latter and several provinces and municipalities.

QUALITY

Pollution. General Comment No. 15, paragraph. 8, 16 (c) (d), 44 (a) (iii). Are there regulations and policies to protect water sources and to prevent them from being polluted?

The legislation which provides principles for the protection and prevention of environmental damage has a long standing constitutional heritage. Pursuant to these provisions, the National Congress and the Local Legislatures have approved regulations to comply with the constitutional by-law.

Among the most important regulations which contain legal measures and procedures for the protection of the environment, the following should be mentioned: Article 43 of the National Constitution; the General Law on the Environment N° 25675; National Law on the System for the Environmental Water Management N° 25688; the National Civil Code; the National Civil and Commercial Procedural Code; the National Law on Dangerous Wastes N°24051, the Federal Agreement on Water and the General Environmental Agreement.

National Constitution and the General Environmental Law N° 25675

Pursuant to Article 43 of the National Constitution, all inhabitants have the right to enjoy a healthy, balanced environment, apt for human development, in such a way that with their productive activities they may meet their present needs without compromising those of the future generations; and they have the duty to preserve it. The environmental damage will result, as a priority, in an obligation to remedy the damage as provided by the law. For this purpose, the authorities will resort to the protection of this right, to the rational use of natural resources, the preservation of the natural and cultural heritage and the biological diversity, and to environmental information and education.

In order to implement these concepts, the Nation is entitled, under the Constitution, to pass regulations providing basic minimum protection measures, and the Provinces are entitled to complement them when necessary, without compromising any local jurisdiction.

In exercising its powers, in 2002, the Congress passed the General Environmental Law. This law establishes the basic minimum criteria to obtain a sustainable and adequate management of the environment, the preservation and protection of biological diversity and the implementation of sustainable development.

Following the guidelines of Article 11 of the International Covenant on Economic, Social and Cultural Rights, the following can be highlighted amongst its principal objectives;

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- a) ensuring the preservation, conservation, retrieval and improvement of the quality of environmental resources;
 - b) promoting the improvement in the quality of life of present and future generations, on a priority basis;
 - c) preventing the deleterious or dangerous effects which human activities generate in the atmosphere in order to make possible ecological sustainability, economic and social development and;
 - d) establishing adequate procedures and mechanisms to minimize environmental risks, for the prevention and mitigation of environmental emergencies and to rectify damage caused by environmental contamination.

In order to achieve these objectives the General Law on the Environment lists the following measures: 1) an environmental survey of the territory, 2) an evaluation of environmental impact, 3) a system for the control in the development of human activities, 4) environmental education, 5) a system for environmental diagnosis and information and 6) an economic system promoting sustainable development.

Whilst we cannot point to any legal provisions specifically referring to water, from an analysis of Article 43 of the National Constitution and of Law 25.675, there are three legal actions addressing the prevention of pollution and the protection of natural resources:

- a) The collective environmental protection action or so-called preventive action regulated by Article 43 of the National Constitution. This is appropriate when rights and collateral are in real or imminent danger (prior to producing the damage) of being damaged, restricted, altered or menaced, in an overtly arbitrary or illegal way.
- b) The recourse on subsidiary injunction and recovery of damages under Law 25.675. The purpose is to restitute the environment by way of “restitutio in natura” or “restitutio pristinium”, or by way of subsidiary recovery of damages to be forwarded to the Fund for Environmental Recovery.
- c) The action to put an end to the damage, provided in the same regulation. The purpose is to stop the damage. This implies that the damage has already occurred, that it has already started to produce its detrimental effects. This case is not one of prevention, rather it is to stop that which has already commenced and which continues. It construes that the damage has not been produced by a single action which has stopped, but rather by a continuum of actions.

With regards to the aforementioned three actions, the right to bring legal action corresponds to the Ombudsman, the NGO's which have been established for said purposes (environmental protection), the national, provincial and municipal authorities and any affected party. In line with the spirit of the constitutional amendment of 1994, most of our case-law construes that an affected party is any proprietor of a diffuse subjective right, or one of a diverse or of collective nature.

As regards to the assignment of responsibilities and the obligation to pay damages, the law provides that the party inducing the environmental damage will be objectively held accountable to restore it to the condition prior to the damage. In the circumstance that this is not technically feasible, the subsidiary damages determined by the intervening courts must be deposited in the Fund for Environmental Compensation, provided for under the present law. For further protection, the law establishes an obligation on all physical or legal individuals, public or private, that carry out activities which may compromise the environment, the ecosystems and its constitutive elements, to carry an insurance with a company which may guarantee the financing of all retrieval activities that may be

induced. According to the case and the possibilities, it can be part of a fund for environmental restoration, which enables remedial actions.

National Law on the System for the Environmental Water Management N° 25688

The National Law on the System for Environmental Water Management which was approved by the National Congress in 2002, establishes the minimum environmental guidelines for the preservation of water, usage and rational use. It is important to note that the law has not yet been passed yet, and in addition, it has been severely criticised because of its dubious constitutional nature, and at the present time there is an amendment bill at the Congress.

In order to provide a precautionary measure, it establishes that the national authorities can, at the request of the competent jurisdictional authority, declare as critical zones deserving special protection: river basins, aquifers and areas or masses of water, given their natural characteristics or their environmental significance.

In order to provide a preventive resource, it calls for the creation of committees of inter-jurisdictional river basins, with the aim of advising the competent authority in matters of water resources and collaborating in the sustainable environmental management of the water basins. It is necessary to have a permit from the competent authority to make use of the waters provided for under the legislation, specially indicating that in the case of inter-jurisdictional river basins, when the environmental impact on any of the jurisdictions is of significant nature, the approval of the usage by the corresponding River Basin Committee, entitled to make this decision by the different jurisdictions, shall be binding.

National Civil Code; National Civil and Commercial Procedural Code

Both the National Civil Code and the Civil and Commercial Procedural Code provide regulations giving access to preventive and complementary legal measures, in addition to the three actions described in the aforementioned paragraphs. Without prejudice to what the Procedural Codes of each province may establish on the basis of their powers, which have not been delegated to the National authorities, the most significant instruments are: the filing of a possible threat and precautionary measures.

1) Filing of a possible threat:

The filing of a possible threat is provided for in Section 2499, second paragraph, of the Civil Code. This regulation establishes that “whoever fears that a building or any other element may cause damage to his property, may file a complaint with a judge for the appropriate preventive measures to be adopted.” Article 623 bis, of the National Civil and Commercial Code, complements and enforces the aforementioned, establishing that in these cases the judge may be requested to adopt the necessary measures, provided the administrative authorities have not proceeded with this same intent.

Once the complaint has been docketed, the Judge must visit the site and if he satisfies himself of the existence of a serious risk, the urgency in removing it and the threat of an imminent serious damage, he can order the necessary steps to stop the danger. If the urgency is not so overt, he will gather the necessary information, by issuing a subpoena of the parties and by appointing an expert in order to verify the validity of the claim. The concurrent or future participation of the administrative authority will result in the closing of the proceedings and case file. The decisions made may not be appealed and cohesive measures may also be imposed.

2) Precautionary Measures:

These measures are intended to prevent that the rights whose recognition or enforcement is the purpose of some other legal procedure, may lose their significance or efficiency during the time that elapses between the starting of the proceedings and the final decision. It is a measure that is adopted *inaudita parte*, that is, without previously hearing the other party; they prevail whilst the causal circumstances continue and they are accessory to the primary proceedings.

The rationale of these measures depends on the following assumptions: 1) possibility that the right which is being claimed may be the basis of the main claim; 2) well grounded fear that this right be infringed or compromised during the substantive proceedings to protect it (the danger caused by the delay) and; 3) the provision of a counter-collateral by the acting party.

As regards to the protection of the environment, we can list the following measures as the most important:

- 1) Order of non innovation It implies to preserve a situation/condition and its purpose is to discontinue and stop any undertaking which purportedly may damage the environment.
- 2) An innovating measure . Contrary to the aforementioned, this measure implies to do something or refrain from doing something in a sense which is contrary to that which should arise from a normal and real situation .

The National Law on Dangerous Wastes N°24051

The National Law on Dangerous Wastes, which was passed by the National Congress in 1992, provides specific regulations on the objective civil accountability regarding matters on dangerous wastes. It provides for a system of penalties which may accrue in case of any infringement of the terms of the law, its regulations and complementary rules which may be passed in this regards. These penalties will be enforced , previously allowing for the proceedings to establish the right to a defence, they will be calculated in accordance with the nature of the infringement and the damage caused and will be enforced regardless the civil or criminal accountability assigned to the infringer.

The Federal Agreement on Water and the General Environmental Agreement

The Federal Agreement on Water provides a kind of declaration called "Guidelines on Water Policy". A chapter is dedicated to water pollution under the heading "Water and the Environment". With regards to the actions against pollution, it establishes that the mere presence of pollution requires the implementation of a comprehensive strategy, made up of actions which are consistent and maintained over time , in order to guarantee the preservation of the quality of water or the compliance with the goals established to progressively restore the quality of water. This strategy involves defining programmes for monitoring and controlling the emission of polluting agents specified for each river basin, with design and implementation standards based on the main polluting characteristics of the effluents from fixed or temporary sources, on the characteristics of the water recipients and of the usage allocated to them.

The General Environmental Agreement has as its objective the promotion of adequate environmental policies in the whole national territory, establishing framework agreements between the federal states and between them and the National Government, which expedite and provide greater efficiency in environmental preservation. With regards to creating an environmental awareness, the signatory states commit to foster and adopt policies on education, scientific-technological research, education, training and community participation which may lead to the protection and preservation of the environment.

ETOSS

Dealing with claims and requests is a key task in the activities of ETOSS (Ente Tripartito de Obras y Servicios Públicos, Control public authority of water and sanitation services) since this implies to communicate, advise and inform the Users as to their rights and obligations in relation to the provision of the services under the concession, in such a manner that may allow them to bring claims, at an initial level, against the company Aguas Argentinas. During 2004, ETOSS received 3,278 complaints and dealt with 58,501 requests from users, concerning the services provided and the billing by the concession holder.

Likewise, ETOSS continues with the task of surveying and identifying the different service providers under the category of Other Non-Regulated Services (cooperatives, mutual associations, private neighbourhoods and country clubs, etc), which operate in the regulated area. It is expected that by 2005 the drafting of the regulations for the Non-Regulated Services shall be completed and that the controls may begin.

A working group with technical staff from ETOSS, the Concession holder and the Municipalities has been established with the purpose of analysing the needs of the most underprivileged sectors of the population and assessing the possibility of meeting such needs through the necessary works required to refurbish and/or retrieve the pipelines, or through the expansion of both the water and sewerage services. This group shall develop a plan for works in the poorest areas of the Concession.

In 1999, ETOSS created the Users Committee, with members from associations for the defence of consumer's rights. This Users Committee has been constantly proactive with ideas, proposals and opinions for the defence of user's rights. In addition, it takes into consideration issues such as tariffs, customer service, quality of service, investment plans, etc.

Do provisions specify the following procedural protections?

Genuine consultation with those affected?

- Timely and full disclosure of information on the proposed measures?
- Reasonable notice of proposed actions?
- Legal recourse and remedies for those affected?
- Legal assistance for obtaining legal remedies
- Is capacity to pay to be taken into account, when exclusion is based on failure to pay for sanitation?

JUSTICIABILITY

Access to legal recourse. Is the right enforceable and is there equal access to the judicial system?

Does jurisprudence exist on the right to water?

The right is enforceable and each provincial jurisdiction has its own particular system. According to the principle of "Legal Equality" of Article 17 of the National Constitution, all inhabitants are held equal by the law and therefore, have equal access to defend, demand and claim their constitutional rights.

In its capacity as administrative regulatory agency, ETOSS operates under a regulated mechanism provided for under Resolutions 83/98 and 52/99 and Decree 999/92. Before a user files a claim related to unsatisfactory services or billing inconsistencies for charging tariffs which are not consistent with the published rates, the user must first submit a claim with Aguas Argentinas S.A. That is to say, ETOSS operates as an appeals authority, when the claim submitted with the concession holder was not properly handled. Likewise, it should be noted that in the area of consumer protection, the

Consumer's Defence Law No. 24.240 complements this procedure in the chapter "Users of Household Public Services" and establishes that the enforcement of said regulations is of subsidiary nature.

Another means of protection which may be brought by the user is to file a protection of collective rights action ("acción de amparo"). This recourse, provided for in the National Constitution, is an expedited and rapid solution, provided that there is not a more appropriate legal means available, against any action or non-action of the public authorities or private parties (which in this case may be the service providers), which in an actual and imminent manner may damage, restrain, alter or menace in an overtly arbitrary or illegal way, the rights and guarantees provided by the National Constitution, a Treaty or a regulation.

Actions of this kind may be brought against any form of discrimination and violation of the rights that protect the environment, the user and the consumer, as well as collective rights in general, by the affected party (construed in its broader sense: the proprietor of a simple interest), by the Ombudsman or the associations created to this end.

Approximately 15 years ago, and particularly prior to the 1994 constitutional amendment, part of the jurisprudence in this matter established that the action for the protection of collective rights (amparo) was not applicable to make the Municipalities resume the supply of drinking water to the plaintiff's residence by way of the Department of Public Works and Services, since the water distribution service (distribution itinerary) at that time under the responsibility of the National Sanitary Works, did not constitute an overtly illegal or unreasonable behaviour, since there was no legal basis, law, provision or decree compelling the company to provide that service. The aforementioned lack of legal framework, has implied that this activity had to be regulated by discretionary power of the administrative authority.^{1[1]} At that time, the doctrine challenged this positivist rationale, arguing that the refusal to supply drinking water represented an uncontested violation of human rights. At the present time, there has been a remarkable progress, not only in the area of actions for the protection of collective rights, but also in the acceptance of an action even in the absence of any legal regulations. The lack of a legal framework cannot legitimize the violation of rights guaranteed to the subjects who are constitutionally entitled to them.^{2[2]} Judges must provide for the protection of constitutional rights and guarantees, and must not resort to the lack of a legal framework or of legal recourses for their implementation as an excuse, because these rights have are not mere theoretical formulas, but they have a compelling nature for the individuals and the authorities and for the whole Nation.^{3[3]}

Participation of Groups of Individuals in Decisions Concerning Water Supply and Sanitation

Participation levels in decision making on all aspects related to social life are very low in Argentina. Moreover, the mechanisms available to make such participation possible are typically weak. Although there is Water and Sanitation Users' Committee, it is frankly weak because it is allocated meagre resources, preventing it to adequately play any significant roles in decision making.

The National Ministry of Health is making significant efforts to inform and educate the population on the precautions to be taken when there are situations potentially hazardous for human health, as well as other risks resulting from unsafe water sources and lack of sanitation. Notwithstanding, there is no evidence of any sustained campaigns from other sectors in the Administration, to create awareness about the population's right to water and sanitation.

Nor are there any mechanisms available to monitor people's right to access to water, apart from the data obtained from the population census carried out by the National Institute of Statistics and Census. At a local level, the role of the NGO's is probably the most relevant in that regard, but that also implies that their claims are not binding and that in the end, it is up to the national and provincial authorities to arbitrarily decide whether to consider their claims or not.

Availability:

Being there no National Water Plan, there is no prioritization concerning the use of water. Nor are there any provisions as to the minimum amount of water a person should be ensured per day, although the objective of the National Water Works (Obras Sanitarias de la Nación) had been to guarantee users 700 litres of water a day, which indicates the unawareness concerning scarcity and preservation of the resource.

Drinking water is usually well guaranteed to the users connected to the network system, whatever their management modality.

Vulnerable Groups:

Drinking water and sanitation in Argentina essentially depend upon each province's political priorities.

Insofar as no state policies are perceived, medium and long term development policies are also missing. Water supply and sanitation services usually tend to respond to the pressure the populations in dire need exert on the authorities, demanding those services. Being vulnerable and powerless, the people not connected to water and sanitation services very seldom exert their right to file any actions against the administration so that those services may be ensured to them, since they are usually more concerned about what they consider their priorities: food and employment. With regard health, there is no generalized awareness on the impact that water and sanitation services have on them, usually emphasizing their health claims in relation to the medical care provided by public hospitals and access to therapies. Health prevention culture is very poor.

CONCLUSION

The right to water and sanitation, as well as the legal nature of the lack of access to those services, are inalienably linked to the country's development policies.

The Argentine tradition in the latest decades has been characterized by an absence of State policies and development strategies.

Although the debate on the "basic needs" appeared to have been exhausted in the late 70's, when it was concluded that the concept was insufficient and obsolete, and could not be applied as the backbone for a sustainable development model, today it seems to be a desirable objective in the construction of a model of a country with less exclusion.

The level of awareness on right to water and sanitation is still low in today's Argentine society. Wealthy sectors of the population do not include the issue in their agenda, not even philosophically, and the poor sectors have access to mostly polluted but still abundant water, being usually more concerned for other needs they perceive as priorities, not having an equal access to sufficient food, medical care, honourable work and housing.

The legal frameworks of the Argentine society are ahead of the population's perceived needs on the issue, and, on the other hand, there are significant flaws in the State's capacity or will to ensure that the law is effectively enforced.

There is an urgent need to change the population's culture with respect the control agencies, guaranteeing a high level of professionalism, reducing their conduction "on political grounds" in the hands of poorly trained people that are not interested in playing the role the society is demanding from them. As to the control agencies, there is a general consensus claiming that the state should be in charge.

Drinking water and sanitation management adopts various modalities (public, private, cooperatives, etc) and both those services and the resources needed depend on the provincial administrations. Privatizations and their outcomes continue to be a matter of debate.

Given the above situation, it seems unlikely that the Millennium Goals shall be achieved by 2015.