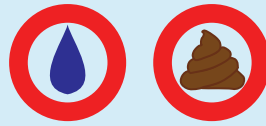


# ZAMBIA



*One of the strongest commitments that can be made to the human right to water and the human right to sanitation is its clear, unequivocal articulation in a country's core laws. This fact sheet examines whether the country's core laws establish a human right to water and a human right to sanitation. We explore whether a right is explicitly stated in those core laws and whether the scope and parameters of right are described in the laws. Articulating a clear obligation is the starting point for implementing the human rights to water and sanitation at the country level.*

## **Modest improvements in access to drinking water and sanitation have been achieved.**

Zambia, located in Southern Africa, is a land-locked country with a total area of more than 750,000 square kilometers and a population of approximately 17.4 million people. Zambia has experienced one of the highest rates of urbanization in Africa with the most densely populated areas located around the cities of Lusaka, Ndola, Kitwe, and Mufulira. The median age is 16.9 years.

Zambia's population has grown steadily since 2000. Urban populations have grown from just under 3.7 million people in 2000 to close to 7.4 million in 2017. Rural populations also grew from 6.8 million to 9.7 million during the same time frame. During this same period, sanitation and drinking water coverage developed unevenly across the country. Overall, the quality of drinking water and sanitation services in urban areas is better than in rural areas. Improvements in access to better quality drinking water and sanitation services have been slowly gained in both urban and rural areas with the greatest gains being made in rural areas between 2000 and 2017.

By 2017, the most recent year of JMP data, 31.8 percent of rural people used open defecation in 2017. Comparatively, 2.8 percent of urban residents practiced open defecation. Between 2000 and 2017, open defecation rates decreased by .1 percent in urban areas, but the raw number of people practicing open defecation increased by almost 100,000 people. In rural areas, rates of open defecation decreased by 4.3 percent between 2000 and 2017 while the raw number of people practicing open defecation increased by just over 600,000. During the same period, the overall number of people covered by safely-managed sanitation or basic sanitation rose from about 2.5 million to about 4.5 million people, from 23.7 percent to 26.4 percent of the population.

With respect to drinking water, in 2017, 49.1 percent of rural people continued to consume drinking water from unimproved sources or directly from surface waters such as lakes and rivers. Comparatively, 10.5 percent of urban residents consumed drinking water from unimproved sources or directly from surface waters in 2017. Between 2000 and 2017, the percentage of rural residents consuming drinking water from unimproved sources and directly from sur-

face waters decreased by 16 percent, whereas in urban areas consumption from these sources decreased by 2.3 percent. In 2017, 83.8 percent of the urban population had access to basic or safely managed drinking water, while 42 percent of the rural population had access to at least basic drinking water. In urban areas, there was a .5 percent decrease in access to basic and safely managed drinking water services between 2000 and 2017. Specifically, there was a 2.3 percent decrease in access to safely managed drinking water and a small increase in access to basic services. Between 2000 and 2017 in rural areas there was an almost 11 percent rise in access to at least basic drinking water services. Safely managed services are not available in rural areas.

In the 2019 WHO GLAAS Report, Zambia reported that it did not have either a right to water or a right to sanitation contained in its Constitution.

**The (human) rights to water and sanitation have not been recognized in Zambian law.**

Zambian law does not establish a right to water or a right to sanitation. While rights to water and sanitation are not recognized, Zambian law recognizes a right to a clean environment. The Environmental Management Act 2011 states that “every person living in Zambia has the right to a clean, safe and healthy environment.” Article 4(1). The right to a clean environment is defined as including “the right of access to the various elements of the environment for recreational, education, health, spiritual, cultural and economic purposes.” Article 4(2). Based on this definition, the right to a clean environment could be interpreted to create a right to access water resources. The “right of access to the various elements of the environment” could be interpreted to include the right to access waterbodies, an element of the environment, for health purposes which would include water to be used for drinking water and to meet other basic human needs such as hygiene, cooking, and subsistence farming. This interpretation would not extend to treated drinking water because treated drinking water is not an element of the environment. Therefore, the right to a clean en-

vironment would likely not be seen as creating a right to safe drinking water or as creating an obligation to supply drinking water or increase access to drinking water. While the right to a clean environment could be interpreted to include a right to access water resources to meet health needs, it would be far more challenging to interpret the language to include a right to sanitation. Sanitation is not an element of the environment; therefore, it is unlikely that a right to sanitation could be inferred from the right to a clean environment.

Access to water resources is directly considered in the Water Resources Management Act 2011. The Water Resources Management Act 2011 grants any person the ability to use water for domestic and non-commercial purposes. Article 62(1). No permit is required for persons using water for domestic or non-commercial purposes. Article 62(2). However, any person seeking to use water must gain lawful entrance onto any land through or on which they seek to gain access to water resources. Article 62(1). Therefore, it would seem that both the Environmental Management Act and the Water Resources Management Act protect Zambians ability to access water resources to meet domestic needs.

The Environmental Management Act also creates an ability to bring legal action where the right to a clean environment is being infringed. Where the right to a clean, safe and healthy environment is “threatened or is likely to be threatened as a result of an act or omission of any other person”, a person may “bring an action against the person whose act or omission is likely to cause harm to human health or the environment.” Article 4(3). Such actions can seek to stop the activity or omission causing harm to the environment or compel a public officer to take measures to stop the act or omission threatening harm to human health and the environment. Article 4(4). Where acts or omissions are harming or or likely to harm water resources or threaten human health, a person would have the ability to bring an action to stop those harmful acts or omissions. Therefore, it is likely where a river or lake is a source of drinking water, should

there be an act or omission that releases or may release pollution into that river or lake, that an action could be brought under Article 4(4) of the Environmental Management Act to stop the pollution. Such a release of pollution into a river or lake used for drinking water would likely be seen as threatening human health and therefore be actionable under the Act.

While no right to water and sanitation is created, an obligation to supply water and sanitation services has been established. The Water Supply and Sanitation Act 1997 requires that local authorities provide water supply and sanitation services to the area falling within its jurisdiction. Article 10(1). They are not obligated to provide services “where a person provides such services solely for that person’s own benefit or a utility or a service provider is providing such services.” Article 10(1). Local authorities may also contract with a person or service provider to provide water supply and sanitation services where they are unable to provide services. Article 10(2). While the law seems to acknowledge that there may be circumstances where the local authorities cannot provide services, it does not seem to offer any exceptions to their obligation to provide water supply and sanitation services. Therefore, local authorities are required to provide water supply and sanitation services within their jurisdiction. Such a requirement facilitates actualizing access to water and sanitation despite there being no explicit right to water in the law.

## References

1. Constitution of Zambia.
2. The Environmental Management Act, 2011.
3. The Water Resources Management Act, 2011.
4. The Water Supply and Sanitation Act, 1997.
5. The Public Health Act, 1930.
6. Central Intelligence Agency (CIA), The World Factbook, Zambia.
7. World Health Organization, Joint Monitoring Program (JMP) Global Database available at <http://www.washdata.org>.