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## The human right to water in Cameroon: An examination of legislation and implementation in light of the South African approach

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**Summary:** *The human right to water is essential for human dignity and well-being. In Cameroon, a substantial proportion of the population, particularly in rural areas, lacks access to safe and affordable water. This article critically examines Cameroon's legislation on the human right to water and the implementation thereof. The central argument of the study is that while Cameroon has a legislative framework in place for the right to water, citizens have been unable to exercise this right. The legal framework appears to be weak and ineffective, failing to provide*

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*and improve access to adequate clean drinking water. Significant gaps also remain in its implementation, thus hindering the realisation of the human right to water. The article seeks to address the research question: To what extent can South Africa's legal model serve as a comparative framework for enhancing Cameroon's water legislation and policy implementation? Drawing on South Africa's experience as a comparative model, the authors investigate the recognition and realisation of this right in Cameroonian law and practice. A critical analysis of the legal frameworks in Cameroon concerning the nature of the right to a quality water supply is also made against regional and international instruments governing the human rights to water to which Cameroon is a state party. The findings demonstrate that legal reforms are required to prioritise this right and achieve universal access to safe and affordable water. The study highlights key challenges and opportunities for reform, with the aim of informing future policy and legislative developments to advance human rights and water access in Cameroon.*

**Key words:** *human rights; right to water; legislation; implementation; Cameroon; South Africa*

## 1 Introduction

Access to clean water is a fundamental human right that supports the realisation of other rights and the well-being of individuals and communities.<sup>1</sup> There is especially an established link between water access and human health.<sup>2</sup> As a result, water rights are recognised or implied in several international treaties and declarations.<sup>3</sup> In Cameroon, the ongoing lack of access to safe and affordable water requires a critical evaluation of the national legal framework and its implementation.

1 General Comment 15 (2002) The right to water, article 11 and 12 of the International Covenant on Economic, Social and Cultural Rights, UN Doc. E/C 12/2002/11.

2 The rights of access to clean drinking water and proper sanitation are acknowledged as fundamental human rights on an international scale, stemming from the right to a sufficient standard of living as outlined in art 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

3 See art 14(2)(h) of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) 1979; art 24(2)(c) of the Convention on the Rights of the Child (CRC) 1989; art 28 of the Convention on the Rights of Persons with Disabilities (CRPD) 2006; General Comment 15: The right to water adopted by the UN Committee on Economic, Social and Cultural Rights, 2003; African Commission Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights, 2010 paras 88-91; art 14(2)(c) of the African Charter on the Rights and Welfare of the Child (African Children's Charter) 1990; United Nations Framework Convention on Climate Change (UNCCC) (21 March 1994); and Convention on Biological Diversity (CBD) (29 December 1993).

Cameroon possesses an annual supply of 285,5 cubic kilometres of renewable water resources, representing 15 per cent of the total water resources in the Central African region.<sup>4</sup> Following the Democratic Republic of the Congo (DRC), Cameroon ranks second in Africa in water resource potential.<sup>5</sup> However, despite this abundance, water resources are not effectively managed to meet the population's needs.<sup>6</sup> Water development projects are often fragmented, resulting in inconsistent and uncertain progress.<sup>7</sup> The absence of a comprehensive water policy, regulation and infrastructure in the context of a young democracy have further exacerbated the inadequate water supply. The country's water resources are unevenly distributed, with the south receiving more rainfall than the north, which exacerbates water scarcity issues.<sup>8</sup> According to the UN Environment Programme (UNEP/GRIP), approximately 61 per cent of the population had access to safe drinking water in 2024, with disparities between urban and rural areas.<sup>9</sup>

Community investment and engagement have contributed to the success of some initiatives.<sup>10</sup> Nevertheless, over 35 per cent of Cameroon's population experiences daily challenges related to water access and poverty, a situation rooted in the historically fragmented approach to water development.<sup>11</sup> People walk long distances to reach rivers, which are not only used to collect water for drinking but also for bathing. These rivers are frequently contaminated with human faeces and various infections, rendering the water unfit for drinking and sanitation. Between 29 October 2021 and 30 April 2022, a total of 6 652 suspected cholera cases, including 134 deaths, were reported by the World Health Organisation (WHO).<sup>12</sup>

4 Food and Agriculture Organisation of the United Nations (FAO) (2003) *Review of World Water Resources by Country*. Water Reports 23. Rome: FAO.

5 L. Sigha Nkamdjou 'Les ressources en eau du Cameroun: potentialités et contraintes' (2002) *Revue de Géographie du Cameroun* 43-57.

6 UN International Children's Emergency Fund/World Health Organisation, UNICEF/WHO *Handbook on water quality* (2008).

7 Global Water Partnership 'Integrated water resources management: A path to sustainable development' (2019).

8 Food and Agriculture Organisation of the UN (FAO) 'Cameroon: Country profile' (2016) AQUASTAT Database, <https://www.fao.org/aquastat/en/countries-and-basins/country-profiles/country/CMR> (accessed 27 September 2015).

9 UNEP/GRIP Water/Cameroon/Interactive Country Fiche, [https://dicf.unepgrid.ch/cameroon/climate-change#:~:text=Cameroon%20is%20one%20of%20the%20world's%20lowest%20emitters%20of%20greenhouse,1%25\)%20sectors%20%5B2%5D](https://dicf.unepgrid.ch/cameroon/climate-change#:~:text=Cameroon%20is%20one%20of%20the%20world's%20lowest%20emitters%20of%20greenhouse,1%25)%20sectors%20%5B2%5D) (accessed 25 September 2015).

10 World Bank 'Community-led total sanitation in Cameroon: A case study' (2018) 15.

11 World Bank 'Cameroon overview: Water supply and sanitation sector' (2020) 4-5.

12 WHO Cholera-Cameroon, <https://www.who.int/emergencies/disease-outbreak-news/item/2022-DON374> (accessed 19 April 2024).

Cameroonians living in conflict zones,<sup>13</sup> where the forcibly and internally displaced, people with disabilities and refugees are left without a safe drinking water supply. According to Titi Ntianhang, Executive Director for African Centre for Advocacy (ACA), Cameroon cannot progress as a peaceful country, where many lack access to safe drinking water. It is also worth noting that in Cameroon, the cost of water has over time increased more than ten-fold, which makes it very expensive for the average household to access sufficient water.<sup>14</sup> ACA has urged the government to increase its efforts to ensure continuous access to safe water for all people, regardless of gender, age, disability, social status or geographic location. Periodic and chronic water scarcity represents a significant challenge to Cameroonians' path to development.

Cameroon's legislative framework for environmental protection and water management is multifaceted, encompassing national laws, regulations and institutional arrangements.<sup>15</sup> Despite the existence of these laws, the legal framework appears to be weak and ineffective. The Cameroonian Constitution is unclear on what exactly defines a right to water and the Water Code<sup>16</sup> provisions acknowledge that the state maintains water protection and management, but simply facilitate rather than guarantee all Cameroonians' access to it. Implementation remains a significant challenge, with inadequate enforcement, a lack of resources and corruption undermining the effectiveness of environmental laws and regulations.<sup>17</sup>

International and regional law binding instruments provide for an implied right to water and the explicit recognition through a United Nations (UN) resolution.<sup>18</sup> Cameroon is a state party to various binding instruments that influence its domestic policies. At the regional level, the African Charter on Human and Peoples' Rights (African Charter), while not explicitly mentioning the water right, provides a foundation for the right to water protection of economic,

13 Boko Haram in the Grand North and the crisis in the two English-speaking regions.

14 CF Tamasang 'The right to water in Cameroon: Legal framework for sustainable utilisation' paper prepared for the workshop entitled 'Legal aspects of water sector reform' organised in Geneva on 21 April 2007 by the International Environmental Law Research Centre (IELRC) in the context of the research partnership 2006-2009 on water law sponsored by the Swiss National Science Foundation (SNF).

15 Law 96/12 of 5 August 1996 relating to environmental protection and management in Cameroon.

16 Ministry of Water and Energy Water Code of Cameroon, Law 98/005 of 14 April 1998.

17 L Fonjong & R Ngoufo 'Water governance and management in Cameroon: Challenges and opportunities' (2017) 12 *Journal of Water Resource and Protection* 1231-1244.

18 For details, see part 2 below.

social and cultural development, health, access to natural resources, and the right to a healthy environment.<sup>19</sup> The African Commission on Human and Peoples' Rights (African Commission) has developed Guidelines on the right to water in Africa, which provide a comprehensive, human rights-based approach to ensure access to safe, affordable and sufficient water.<sup>20</sup> These Guidelines draw on the African Commission's jurisprudence and prior resolutions, as well as reports from the UN Special Rapporteurs and General Comment 15 of the UN Committee on Economic, Social and Cultural Rights (ESCR Committee).<sup>21</sup>

The right to water was only formally recognised as a human right in 2010 when the UN General Assembly adopted Resolution A/RES/64/292 on the right to water.<sup>22</sup> In this Resolution, water and sanitation are acknowledged as essential rights required for the full enjoyment of life and the realisation of all human rights.<sup>23</sup> It exhorts states to ensure that everyone can access clean, affordable, safe drinking water and sanitary facilities. Resolution A/RES/64/292 established the right to water in international human rights law, including the human right to water and sanitation as a fundamental right essential for the full enjoyment of life and all human rights.<sup>24</sup> As a result, countries have a legal obligation to guarantee that this right is realised. The Resolution emphasises the importance of a human rights-based approach to water and sanitation, prioritising the needs of developing countries and ensuring that no one is left behind.<sup>25</sup> It also highlights the need for laws and governance to address all reasons for discrimination and ensure equal access to water and sanitation.<sup>26</sup>

In order to assess Cameroon's water legislation and its implementation, focusing on the recognition and management of the human right to water, this study examines the human right to water under international and African regional law, compares Cameroon's legislative framework for clean drinking water with South Africa's legal provisions for access to sufficient water, and assesses the effectiveness of each approach. Part 2 analyses the

19 Art 16 African Charter on Human and Peoples' Rights (1981).

20 African Commission on Human and Peoples' Rights Guidelines on the Right to Water in Africa, 2019.

21 General Comment 15 (n 1).

22 UNGA Res 64/292, UN Doc A/RES/64/292 28 July 2010.

23 UN Doc A/RES/64/292 28 July 2010 para 1.

24 A Belinski and others 'Domestic manifestations of international law's right to water: A comparative analysis of emerging rights obligations in Finland and South Africa' (2017) 25 *African Journal of International and Comparative Law* 264-268.

25 UN Doc A/RES/64/292 28 July 2010 para 2.

26 UNGA Res 64/292 2010.

international and regional instruments on the right to water in order to establish the nature of state obligations on the right to water. Part 3 unpacks the extent to which the right to water is recognised under Cameroonian law. Part 4 discusses the South African model for the protection of water rights. South Africa's constitutional right to water under section 27 obliges the state to ensure that everyone has access to sufficient water and adopt appropriate legislative and other measures within its available resources to ensure that the right to water is progressively realised.<sup>27</sup> Part 5 draws comparative lessons for Cameroon from the South African model. The study concludes in part 6 with recommendations for the improvement of water governance in Cameroon.

## **2 The human right to water in international and regional law**

This part contains an overview of the evolution of the human right to water in international and African regional law and the nature of state party obligations. A discussion of these international legal provisions is important because it provides the normative character of the human right to water, establishes universal standards, and provides the regional context that delineates the right to water.

### **2.1 Emergence of a right to water under international human rights law**

The UN emphasises the importance of access to information in legal frameworks related to water and sanitation services.<sup>28</sup> The UN Universal Declaration of Human Rights 1948 (Universal Declaration) recognises the right to a standard of living adequate for health and well-being, including access to water.<sup>29</sup> While the Universal Declaration itself does not explicitly mention water, the right is implicitly part of the right to an adequate standard of living and the right to health.<sup>30</sup> While civil and political rights are protected by the International Covenant on Civil and Political Rights (ICCPR), the right to water is not explicitly addressed by it. However, the

<sup>27</sup> See details in part 4 below.

<sup>28</sup> Office of the High Commissioner for Human Rights (OHCHR) The right to water. Fact Sheet 35 (2010).

<sup>29</sup> Art 25 Universal Declaration of Human Rights (1948). For details, see GIZ 'The human right to water: More promise than reality', <https://www.giz.de/en/newsroom/stories/human-right-water-more-promise-reality#:~:text=Clean%20drinking%20water%20and%20safe,rights%20lies%20with%20individual%20states> (accessed 1 October 2025).

<sup>30</sup> United Nations General Assembly Universal Declaration of Human Rights, 10 December 1948 217, (III).

right to water is strongly linked to other rights, such as the right to life and dignity, which are protected by ICCPR. Additionally, the International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR) obliges states to ensure the progressive realisation of economic, social and cultural rights, including the right to water as an implied right.<sup>31</sup> Even though these three texts<sup>32</sup> did not expressly acknowledge water rights, they formed the normative bedrock of the human rights regime from which water and sanitation rights under international law would emerge.<sup>33</sup> The above highlights the importance of access to clean water as a fundamental human right, emphasising the obligations of states to ensure the realisation of this right.

The UN Mar Del Plata Action Plan in 1977 acknowledged the right to water for the first time in soft law form, obliging states to ensure that everyone has access to sufficient drinking water, regardless of socio-economic status or development stage.<sup>34</sup> The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) also guarantees water rights.<sup>35</sup> The human right to water being a fundamental right is recognised in various international agreements, including the 1992 Dublin Conference on Water and Sustainable Development, the Rio Declaration on Environment and Development,<sup>36</sup> and the Mar del Plata Water Conference Resolution.<sup>37</sup>

Binding instruments also provide for water rights. The Convention on the Rights of the Child (CRC) mandates states to implement comprehensive measures to combat illnesses and hunger, including providing safe drinking water.<sup>38</sup> Article 28 of the Convention on the Rights of Persons with Disabilities (CRPD) provides for the right to adequate standards of living and social protection and steps should be taken by state parties to ensure these rights, such as providing equal access to clean drinking water.

31 Arts 11 & 12 International Covenant on Economic, Social and Cultural Rights (1966) (ICESCR).

32 The International Bills of Human Rights include the Universal Declaration, ICCPR and ICESCR.

33 BM Meier and others 'Implementing an evolving human right through water and sanitation policy' (2013) 15 *Water Policy* 116.

34 United Nations Water Conference Mar Del Plata Action Plan of 1977.

35 Art 14(2)(h) CEDAW.

36 UN International Conference on Population and Development of 1994.

37 Report of the United Nations Conference on Environment and Development: Agenda 21, 1992. Ch 18 examines the right to water in terms of three elements: access, quality and quantity, emphasising the importance of all aspects of sustainable development. Water is also considered a natural resource and a social and economic good whose quality and quantity determine how much it can be used. Agenda 21 paras 18.2, 18.47 & 18.18.

38 Art 24(2)(c) Convention of the Rights of the Child 1989.

In November 2002, the ESCR Committee adopted General Comment 15 on the right to water,<sup>39</sup> outlining state parties' obligations and defining violations.<sup>40</sup> The General Comment clarifies that the right to water is essential for securing an adequate standard of living and is inextricably linked to the right to health.<sup>41</sup> The right to water and sanitation encompasses key aspects such as availability, quality, accessibility and acceptability.<sup>42</sup>

As discussed in the introduction above, the UN General Assembly Resolution A/RES/64/292, adopted on 28 July 2010, recognises the human right to water and sanitation, acknowledging that 'the right to safe and clean drinking water and sanitation is a human right that is essential for the full enjoyment of life and all human rights'.<sup>43</sup> This Resolution emphasises the importance of access to safe, clean and affordable drinking water and sanitation for all, particularly in developing countries.<sup>44</sup> By recognising this right, the UN General Assembly has underscored the need for governments and international organisations to prioritise access to water and sanitation, ensuring that these essential services are available and accessible to all.

Even though the right to water has not been explicitly stated in the Universal Declaration or the covenants themselves, it is recognised and protected by international law through the interpretation of existing human rights treaties, particularly ICESCR. According to the UN, this right includes having access to sufficient water for household and personal use that is safe, acceptable, physically accessible and affordable.

## 2.2 Nature of state party obligations under international law

The obligations imposed on states are clearly articulated in General Comment 15, which further elucidates the normative content of the right to water. In developing the nature of state party obligations, the ESCR Committee draws from the rights guaranteed in articles 2 to 5 of ICESCR.

39 General Comment 15 para 2 implies the right to two articles of ICESCR of 1966: the right to adequate living standards (art 11) and the right to the highest attainable health standards (art 12). Even though it was not included in ICESCR, the ESCR Committee stressed the right to water in General Comment 15.

40 General Comment 15 is discussed in more detail under 2.2 below.

41 General Comment 15 para 2.

42 General Comment 15 para 12.

43 UN General Assembly Resolution A/RES/64/292 'The human right to water and sanitation' 28 July 2010 para 1.

44 As above.



According to General Comment 15, ICESCR emphasises the legal responsibilities of state parties to uphold the right to water, requiring them to use their resources and international assistance to achieve the rights under the Covenant. This includes enacting legislative measures, utilising resources effectively, and ensuring gradual realisation of the right through economic and technological support.<sup>45</sup> States must also not engage in activities to destroy water rights or derogate human rights.<sup>46</sup> The duties at the national level include existing legislation, strategies and policies that should be reviewed to ensure compatibility with obligations arising from the right to water and should be repealed, amended or changed if they are inconsistent with ICESCR requirements.<sup>47</sup>

The ESCR Committee asserts that while ICESCR allows for the continuous fulfilment of the right to water, it also imposes specific obligations that must be promptly met,<sup>48</sup> including the enactment of legislative measures. The Committee emphasises the importance of deliberate, practical measures, including legislative measures, to fully realise the right to water, stating that legislation remains the essential step.<sup>49</sup> General Comment 15 sets out obligations to respect, protect and fulfil the right to water. Under the obligation to respect, states should refrain from intervening directly or indirectly with the enjoyment of water rights.<sup>50</sup> The General Comment requires governments to ensure that a person's access to water is not interfered with by the actions of their institutions and officials. Under the obligation to protect,<sup>51</sup> state parties are required to implement measures that ensure that third parties do not interfere with the enjoyment of water rights.

Under the obligation to fulfil,<sup>52</sup> the state is required to facilitate, promote and provide. As part of the obligation to 'facilitate', General Comment 15 calls for the establishment of legal remedies that can address violations of the right to water.<sup>53</sup> The duty to 'promote' calls on State Parties to concentrate on creating and implementing laws and programs to inform their people and increase awareness of their legal entitlement to water, particularly among those living

45 Art 2(1) ICESCR.

46 Art 5 ICESCR.

47 General Comment 15 para 46.

48 Arts 2(2) & 3 ICESCR; for other details on state duties on discrimination against the water right, see art 14(2) of CEDAW; art 24(2)(c) of CRC; General Comment 15 paras 13-17.

49 General Comment 15 para 17.

50 General Comment 15 paras 21-22.

51 General Comment 15 para 23.

52 General Comment 15 paras 25-27.

53 General Comment 15 para 26.

in remote areas. Under the responsibility to 'provide', states must make sure that water is accessible and implement measures such as appropriate technology, low-cost methods and appropriate pricing. Whether privately or publicly provided, payments for water services should be based on the principle of equity in equivalence to their level of affordability. Accessibility<sup>54</sup> criteria include meeting WHO recommendations for daily water consumption and hygiene.<sup>55</sup> State parties must exercise the right to water without discrimination.<sup>56</sup>

General Comment 15 has had significant effects, influencing international law, domestic laws and politics, with over 50 countries accepting the right to water in their laws, and courts referencing it in decisions.<sup>57</sup> It has also shaped human rights norms and facilitated the work of organisations promoting the right to water, becoming a powerful tool for treaty interpretation and standard setting.<sup>58</sup> Governments, including that of Cameroon, must reasonably protect and promote the right to water, with the national government overseeing and defending it.<sup>59</sup>

### 2.3 African regional human rights laws

The African Charter provides a framework for protecting human rights, including the rights to a healthy environment and, implicitly, the right to safe drinking water.<sup>60</sup> Article 16 of the African Charter guarantees the right to enjoy the best attainable state of physical and mental health, which can be linked to access to clean water.<sup>61</sup> Furthermore, article 24 emphasises the right to a general satisfactory environment favourable to development, which encompasses the right to safe drinking water.<sup>62</sup> The African Commission has also recognised the importance of access to clean water in its jurisprudence, highlighting the need for states to ensure access to

54 See General Comment 15 paras 12(a)(b) & (c).

55 G Howard & J Bartram 'Domestic, water quantity, service level and health – World Health Organisation: Geneva, Switzerland' (2003) 23.

56 General Comment 15 para 13.

57 See Centre on Housing Rights and Evictions (COHRE) and others *Legal resources for the right to water and sanitation: International and national standards* (2008) 8.

58 SJ Cassar and others 'Water as a human right?' IUCN Environmental Policy and Law Paper 51 (2004) 21.

59 International Council on Human Rights Policy *Local government and human rights: Doing good service* (2005) 11 & 20.

60 African Charter on Human and Peoples' Rights adopted 27 June 1981, OAU Doc CAB/LEG/67/3 rev. 5, 211 ILM.58 (1982).

61 See art 16.

62 See *Free Legal Assistance Group and Others v Zaire*, Communication No. 25/89, 47/90, 56/91, 100/93 (1995), where the African Commission emphasized the importance of access to basic services, including clean water, for the realization of human rights.

this essential resource.<sup>63</sup> By ratifying the African Charter, Cameroon has committed to upholding these rights, including the implicit right to safe drinking water. As a result of the implied right to water, the African Charter requires state parties to develop systematic and well-planned policies and programmes to guarantee the safe use of water.<sup>64</sup> Several other African instruments are committed to the right of access to water.<sup>65</sup> The African Commission in its Guiding Principles also emphasises the importance of respecting,<sup>66</sup> protecting,<sup>67</sup> promoting<sup>68</sup> and fulfilling<sup>69</sup> water rights and prohibits member states from using water as a political instrument.<sup>70</sup>

International and regional human rights frameworks pertaining to the right to water provide a solid basis for identifying legal obligations, encouraging accountability, and permitting efficient management of water resources. An international human right to water promotes accountability, provides standards for equitable governance, helps governments, including that of Cameroon, and civil society understand their legal obligations, and fosters inclusive and sustainable water management practices. Additionally, these frameworks ensure that environmental concerns, water-related disputes and the needs of marginalised communities are addressed in a comprehensive and rights-based manner.

### 3 Cameroonian water legislation and implementation

The Cameroonian water sector is governed by a complex framework of laws, regulations and policies that aim to ensure sustainable management and access to clean water for all. The water sector has been shaped by its colonial past, with laws and institutions inherited from European colonial powers.<sup>71</sup> After gaining independence in

63 African Commission Principles and Guidelines (n 3) para 92(a).

64 African Commission (n 3) para 92(g).

65 Eg, art 14(2)(c) of the African Charter on the Rights and Welfare of the Child (African Children's Charter) obliges member states to take measures to realise children's rights to safe drinking water entirely. See further the Abuja Declaration on Water: A Key to Sustainable Development in Africa, 2002, and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol) 2003, which includes commitments concerning access to safe drinking water.

66 African Commission Principles and Guidelines (n 3) paras 5 & 6.

67 African Commission (n 3) para 7.

68 African Commission (n 3) para 8.

69 African Commission (n 3) paras 10-12.

70 African Commission (n 3) para 92(iii).

71 MM Njeuma Colonialism and the development of water infrastructure in Cameroon' (2017) 35 *Journal of Contemporary African Studies* 193-208.

1960, Cameroon has undertaken various reforms to modernise its water sector, including the adoption of new laws and policies.

The Cameroonian government has reaffirmed its commitment to a human right to quality potable water, a fundamental human right recognised in regional and international legal frameworks set out above and also in national law.<sup>72</sup> However, as discussed in the introduction, Cameroon's water sector continues to face significant challenges, including water scarcity, pollution and limited access to clean water, particularly in rural areas.<sup>73</sup>

The 1996 Cameroonian Constitution does not explicitly recognise the right to water, but it affirms the people's attachment to fundamental freedoms enshrined in international human rights instruments, which can be interpreted to include the right to water.<sup>74</sup> Although the Constitution does not explicitly mention the right to water, the normative content of this right, including availability, quality and accessibility, can be inferred from international human rights law to which Cameroon is a party.<sup>75</sup> Thus, the country's ratification of international treaties and conventions related to human rights, including the right to water, can provide a basis for advocating this human right.<sup>76</sup> Additionally, article 21 of the Constitution provides for the right to a healthy environment, which is closely linked to access to clean water.<sup>77</sup> Overall, while the Constitution does not provide a clear foundation for water rights, it can be interpreted in conjunction with international human rights law to promote access to clean water for all Cameroonians.

Regarding promoting, respecting and protecting people's fundamental rights, the Constitution appears to have more of a political leaning than a practical legal nature, a phenomenon that has caused some analysts to label the Constitution 'an utter disappointment' from a human rights protection perspective.<sup>78</sup> The right to water implied in the socio-economic rights and the right to a healthy environment are narrowly defined in the Constitution,

72 Global Water Partnership Central Africa, <https://www.gwp.org/en/GWP-Central-Africa/WE-ACT/news/cameroon-reaffirms-its-commitment-to-water-access-through-its-national-water-policy/> (accessed 26 September 2025).

73 World Bank Cameroon Water Security Project, <https://documents1.worldbank.org/curated/en/099032625145041785/pdf/P180321-db753221-0834-4cb5-909d-910483939317.pdf> (accessed 27 September 2025).

74 The 1996 Constitution of the Republic of Cameroon, Preamble.

75 General Comment 15 (n 1).

76 See, eg, arts 11-12 ICESCR.

77 Constitution of the Republic of Cameroon art 21.

78 AA Agbor 'Pursuing the right to an effective remedy for human rights violation(s) in Cameroon: The need for legislative reform' (2017) 20 *Potchefstroom Electronic Law Journal* 17.

and it bears no relation to people's health or well-being, nor does it establish a link between environmental protection and people's health and well-being.

The country's water legislation, including the Water Code, provides a framework for managing water resources, as discussed below.<sup>79</sup> Despite government initiatives such as the National Drinking Water Supply and Sanitation Policy (a strategic framework to ensure sustainable and equitable access to water and sanitation by 2030 with specific goals water coverage in the country) and Integrated Water Resources Management (IWRM) principles (a promising approach in ensuring sustainable management of Cameroon's water resources), challenges persist. Implementation challenges such as inadequate enforcement, limited funding and weak institutional capacity hinder effective water management.<sup>80</sup> Consequently, strengthening institutional capacity, increasing funding, and promoting community participation are essential for improving water management and access to clean water in Cameroon.<sup>81</sup>

Legal remedies available to Cameroonians for water rights violations primarily involve the administrative and judicial systems. Individuals or communities can file complaints with relevant government bodies, such as the Ministry of Water and Energy, to seek redress for inadequate access or violations of water rights. Additionally, affected parties may pursue legal action through the courts to hold accountable those responsible for non-compliance with national or international water frameworks. While these avenues exist, the effectiveness of legal recourse can be limited by factors such as procedural delays, access to legal representation and the enforcement of court rulings. Therefore, strengthening legal remedies and improving access to justice remain crucial components in ensuring the protection of water rights in Cameroon.

79 Government of Cameroon (1998) Water Law (Law 98/005 of 14 April 1998).

80 HB Tantoh & D Simatele 'Complexity and uncertainty in water resource governance in Northwest Cameroon: Reconnoitring the challenges and potential of community-based water resource management' (2018) 75 *Land Use Policy* 237-251.

81 UNICEF 'Water, sanitation and hygiene (WASH) in Cameroon' (nd), <https://www.unicef.org/cameroon/water-sanitation-and-hygiene> 0#:~:text=Access%20to%20safe%20water%20stands,and%20rural%20(22%25)%20areas (accessed 25 September 2015).

### 3.1 The Water Code and other legislation

As intimated above, there is no explicit provision on the right to water in the Constitution, and the Water Code of 1998<sup>82</sup> served as the first binding water law in Cameroon to guarantee access to water for Cameroonians. Until the Water Code explicitly recognised access to water, the right to water had been regarded solely as a health-related right. The Code expressly provides that water is a public good or utility, that the state ensures its protection and management, and facilitates access to all.<sup>83</sup> The Water Code laid down regulations governing water resources within the principles of environmental management and proclaimed water as a shared national resource to be directly managed and protected by the state or indirectly administered by regions and councils on behalf of the state.<sup>84</sup>

The Water Code prohibits water pollution in any form that is prone to modify its quality. It also compels parties with services that may pollute water to take appropriate measures to control the side effects of such services in the community.<sup>85</sup> Consequently, any company that causes damage to the community where its activities are being carried out, owing to the poor quality of water dispensed for consumption, is liable for repairs and compensation of the affected party. The fines range from 10 to 20 million FCFA francs and five to 15 years' imprisonment.<sup>86</sup>

However, before Cameroon's Water Code was adopted, the government administered water management through various laws, decrees and deliberations of the National Assembly. These include Law 64/LF/3 of 6 April 1964, enacted to establish the relation between the owner and exploiter of a mineral substance and conditions for the acquisition and occupation of land, and is also applicable to the exploitation of springs and mineral waters in Cameroon.<sup>87</sup> Although its main aim was for minerals and land exploitation, it also applied to springs and mineral water, thereby indirectly impacting on the human right to water by regulating access to such resources. The

82 Law 98/005/ of 14 April 1998 laid down regulations governing water resources (Water Code).

83 Art 2 Water Code (n 82).

84 Art 2(2) Water Code.

85 Art 6 Water Code.

86 Art 16(1) Water Code.

87 Cameroon National Assembly (CAN) 1964, Law 64/LF/3 of 6 April 1964, Legislative Year 1964/1965, Yaounde. This mineral water was packaged and sold to areas where there was a lack of clean drinking water.

West Cameroon Urban Water Authority Law<sup>88</sup> was enacted in 1971 to establish urban water authorities in West Cameroon provinces to provide water for domestic and industrial uses, develop and plan water services for communities, and further the cause of adequate water delivery in Cameroon. This law directly impacted on the human right to water as it provided water to unprivileged communities. Under this statute, the water authority was allowed to set water rates and charges for misuse of the province's resources and water systems.<sup>89</sup> The West Cameroonian water law provided a right to water for the communities as water was provided for domestic and personal uses.

Two years later, in order to improve the living conditions of indigenous peoples throughout the country, Law 73/16 of 7 December 1973<sup>90</sup> established rules and regulations managing spring and spa waters as government property and requiring the Ministry of Mines to approve companies' exploration, exploitation and bottling of such waters.<sup>91</sup> Despite establishing the regulations, the 1973 law does not explicitly state that water is a human right, but rather focuses on administrative and management aspects of water services. Violations of the statute are punishable by three years' imprisonment and a fine of 1 million FCFA, or both.<sup>92</sup> Furthermore, to handle the management and protection of natural resources in Cameroon, Law 84/13 of 5 December 1984<sup>93</sup> was adopted, which classified water into state waters, including ground water, rivers, seas, lakes and non-state waters comprising water from wells, springs and boreholes harnessed in favour of the public and rainwater falling on private land. As a result, the non-state waters may be declared public and incorporated into state waters after due compensation of the owner by the state if the need arises.<sup>94</sup> Citizens were also granted rights to

88 CNAB 1971, West Cameroon Official Gazette 7 II of 13 February 1971, Part C, Buea: Cameroon National Archives, Buea, and CNAB.

89 Cameroon National Archives, Buea, CNAB, Western Cameroon Official Gazette, WCOG, 1971: Part C.

90 Law 73/16 of 7 December 1973 laid down rules and regulations governing spring and spa waters. This law was reaffirmed by Law 88/17 of 15 December 1988, defining the rights and royalties relating to the exploitation and exploration of springs, spas and thermal waters and putting the parties interested in the exploration and exploitation of such waters to the payment of rights and royalties to the government. Therefore, the Ministry of Water and Energy was held responsible for its execution and imposed penalties worth 10 000 Fcfa fine for delay in paying royalties and 50 per cent of the total value of royalties for a false declaration to the state. Republic of Cameroon, 1988, Law 88/17 of 15/12/1988, Legislative Year, 1988/1989, Yaounde: Cameroon National Assembly, CNA.

91 Law 73/16 of 7 December 1973 art 13.

92 United Republic of Cameroon, URC, 1973, Law 73/16 of 7 December 1973, Legislative Year 1973/1974, Yaounde, Cameroon National Assembly, CAN.

93 Law 84/13 of 5 December 1984, laying down regulations governing water resources in Cameroon,

94 SB Oumar & DD Tewari 'The development of water management institutions and the provision for water delivery in Cameroon: History and future' School

utilise public water if they did not interfere with other users' access to water or destroy fauna and flora. This law also stipulates that the use of water for non-domestic purposes requires a declaration and the state's authorisation or concession. It also taxes users based on how their economic activities pressure water resources.<sup>95</sup> This law also provided punishments ranging from five days' to six months' imprisonment and fines ranging from 10 000 to 100 000 FCFA, or both, for violators.<sup>96</sup>

In 1990, Law 90/016 of 16 August 1990 was enacted to lay down conditions on mineral waters and sources. This law modifies Law 73/016 of 17 December 1973. It strengthens Law 88/018 of 16 December 1988, which describes the rights and claims relating to the exploitation and exploration of mineral and spring waters.<sup>97</sup> Although it does not specifically define water as a human right, it does have a certain immediate influence on that right by regulating water resources for economic development which can lead to a universal access for all people. However, it places a strong focus on resource management and the effects of water sector policies such as privatisation, which indirectly and often negatively affect access, particularly for underserved populations. In addition, Law 95/06 of 30 January 1995 authorises the President of the Republic of Cameroon to ratify the minutes on international boundaries demarcation in the Lake Chad Basin. This law strengthened the cooperation concerning the use of Lake Chad waters by the populations of Chad, Nigeria, Niger and Cameroon living around that area, which goes a long way to minimise the risk of conflicts in the area.<sup>98</sup>

In line with its constitutional dispensation of a right to a healthy environment, Law 96/12 of 1996 relating to Environmental Management in Cameroon<sup>99</sup> was enacted, laying a general framework for environmental management in Cameroon. The 1996 law emphasises in article 10 that the government shall prepare environmental policies and coordinate their implementation. It shall establish quality norms for air, water, soil and other necessities to

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of Accounting, Economics and Finance, University of KwaZulu-Natal; Durban, South Africa 80.

95 As above.

96 Republic of Cameroon, RC, 1984, Law 84/13 of 5 December 1984, Legislative Year 1984/1985, Yaounde: Cameroon National Assembly, CNA.

97 RF Kouam and others 'Gestion intégrée des ressources en eau et objectifs du millénaire pour le développement en Afrique: Cas du Cameroun' (2006) 7 *Vertigo* 1-19, [www.vertigo.uqam.ca/vol7no2/art11vol7no2/vertigovol7no2kouam et coll.pdf](http://www.vertigo.uqam.ca/vol7no2/art11vol7no2/vertigovol7no2kouam%20et%20coll.pdf) (accessed 20 July 2008).

98 Republic of Cameroon 1995 Law 95/06 of 30 January 1995, Legislative Year, 1994/1995, Yaounde: Cameroon National Assembly.

99 Law 96/12 of 5 August 1996 relating to environmental management in Cameroon.



safeguard human health and the environment.<sup>100</sup> Continental waters constitute public property whose use, management and protection shall be subject to the provisions of this law and those of the laws and regulations in force.<sup>101</sup> The administration in charge of water resources shall make an inventory establishing the extent of pollution of continental waters following physical, chemical, biological and bacteriological criteria. The inventory shall be amended periodically or each time unusual pollution affects the state of these waters.<sup>102</sup>

Cameroon adopted a policy framework in 2004<sup>103</sup> targeted at privatising the water supply sub-sector in the country, which was implemented on two levels: (i) the development of water supply infrastructures; and (ii) the exploitation of water supply schemes. The state, infrastructure and exploitation partners were the three main actors in this water supply sub-sector. First, the state is responsible for defining the general water policy, ensuring good water resource management and facilitating access to all, defining the consumption tariff, arbitrating in the sub-sector, and guiding and collaborating with local communities to implement water programmes. Second, the infrastructure partners oversee the planning, conducting studies, completing the work, obtaining financing, and managing the finances throughout the execution of the works, which include water catchments, production, transportation, storage and distribution of drinking water; construction, maintenance, and management of the infrastructure; and informing and sensitising the public on drinking and waste water management. Finally, the partners for the exploitation of water supply infrastructures are responsible for exploiting and maintaining the infrastructures and related materials, developing strategies to improve connectivity to water supply facilities, replacing worn-out exploitation materials and water meters, and seeking funding for water supply network expansion.

Water management practices in Cameroon have historically been fragmented and inconsistent due to the lack of a comprehensive national framework for water regulation. The complexities of water distribution, quality and access, especially for marginalised communities, are not adequately addressed by national laws and regulations. As noted in connection with other agreements, the normative framework pertaining to the human right to water is still in its infancy, and there is a significant discrepancy between

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100 Art 10 1996 Law.

101 Art 25 1996 Law.

102 Art 26 1996 Law.

103 Law 2004/17 of 22 July 2004, spelling out the framework of decentralisation of water management and Law 2004/18 of 22 July 2004, specifying the terms applicable to local communities.

the legal provisions and their actual application. Additionally, water management policies are often fragmented across several institutions, and fragmented and ineffective implementation tactics are the result of a lack of cooperation across different administrative levels. The lack of political will and financial commitment from national and local authorities to implement sustainable water development policies continues to be a persistent concern.

### 3.2 Water management institutions in Cameroon

In Cameroon, the institutional framework for water management plays a crucial role in ensuring that citizens have access to this vital resource. This institutional framework for water management is complex, involving various stakeholders such as government ministries, public companies and private operators with distinct roles. The Ministry of Water and Energy (MINEE) is the primary institution responsible for developing and implementing government policy on water and sanitation.<sup>104</sup> The Cameroon Water Utilities Corporation (CamWater), a public company created in 2005, manages public water supplies in urban areas, including production, transport and distribution, working in partnership with private operators such as Camerounaise des Eaux (CdE),<sup>105</sup> which manages water distribution under a leasing contract. Also, decentralised local authorities, empowered by Law 2019/024, are responsible for water resource management and drinking water supply within their territories.<sup>106</sup> The National Water Committee plays a crucial role in policy development and coordination, while research and training institutes provide capacity-building programmes for water professionals.<sup>107</sup> Despite progress, challenges persist, including limited access to clean water, with only 29 per cent of households connected to the public water supply network, and significant water losses, estimated at 53 per cent of production.<sup>108</sup> To address these challenges, CamWater has developed a Strategic Development Plan (PDS) 2025-2029, aiming to improve access to potable water and sanitation infrastructure, aligning with the National Development Strategy 2030 (SND30).<sup>109</sup>

<sup>104</sup> Law 98/005 of 14 April 1998 (Water Law).

<sup>105</sup> It should be noted that despite CamWaters' partnership with Camerounaise des Eaux (CdE), its operation was officially terminated by a presidential decree on 20 February 2018.

<sup>106</sup> Law 2019/024 of 24 December 2019 relating to decentralisation law.

<sup>107</sup> Art 2(1) of the Water Code (n 82), which states that water is a national, common resource which the state must ensure protection, management of and facilitate access by all.

<sup>108</sup> African Development Bank Cameroon: Water Sector Review (2018).

<sup>109</sup> CamWater Strategic Development Plan (PDS0 2025-2029).

### 3.3 The contribution of village development organisations in increasing access to safe drinking water in Cameroon

The village development organisations play a vital role in increasing access to safe drinking water in Cameroon, particularly in rural areas where government infrastructure may be lacking. Some of these organisations are village development associations and some are non-governmental organisations (NGOs) that assist in providing water to the local populations. Most frequently, NGOs are very active in water development in the local communities.

Organisations such as Support Humanity Cameroon (SUHUCAM) and Global Compassion have implemented projects to provide clean water, including constructing wells, rehabilitating spring catchments and building reservoirs. SUHUCAM is a non-profit development and environmental organisation that has worked to deliver clean water and sanitation in rural communities, for example, protecting catchment areas, constructing reservoirs and installing taps to supply over 6 000 people in rural communities in the north-west region.<sup>110</sup> These efforts have not only enhanced access to clean water but also encouraged hygiene and sanitation practices, reducing the risk of waterborne diseases. Also, the UN Office for Project Services (UNOPS) has worked with the government of Cameroon and local communities to bring clean drinking water to over 120 villages across three regions of the country, with funding from the Korean International Cooperation Agency (KOICA).<sup>111</sup>

In addition, Veolia Foundation is installing standpipes and hand-washing facilities in the Bangante municipality of Cameroon to increase water access, and offering employment in soap manufacturing to young people who have lost income due to the pandemic.<sup>112</sup>

Furthermore, village development organisations engage local communities in the planning and implementation of water projects, ensuring that their needs are met and that they are invested in the sustainability of the projects. For instance, in Koutaba, Cameroon, local communities have been involved in the construction of water

110 SUHUCAM *Clean water and sanitation projects in the north west region of Cameroon* (nd), <https://www.suhucam.org> (accessed 15 October 2025).

111 United Nations Office for Project Services (UNOPS) *Cameroon: Bringing clean drinking water to rural communities* (nd), <https://www.unops.org> (accessed 15 October 2025).

112 Veolia Foundation *Water and sanitation projects* (nd), <https://www.fondation.veolia.com> (accessed 15 October 2025).

supply systems, including two powered by solar energy, to pump clean water either directly to people's homes or to public points.<sup>113</sup>

Finally, village development organisations build the capacity of local communities to manage and maintain their water systems, ensuring that they can sustainably manage their water resources. In Djiyit-Djickechi village, the community is building a water tower to extend the infrastructure to reach more neighbourhoods, demonstrating their commitment to managing their water resources.<sup>114</sup>

These efforts demonstrate the importance of community-led initiatives in addressing Cameroon's water crisis and highlight the need for continued support and investment in water infrastructure and services. NGOs and village associations have a challenging but crucial role in promoting the human right to water. Their impact is mostly seen in the form of advocacy, strong community involvement and infrastructure development.

In summation, in Cameroon, the constitutional framework protects the environment and water resources, but it does not clearly define the right to water and obligations of citizens. The legal foundation for the right to water in Cameroon is undermined by a number of flaws. First of all, access is made more difficult by the fact that this right is not specifically acknowledged in legislative documents.<sup>115</sup> Second, the Water Law has to be revised because it does not have an integrated strategy to water resources management, and enforcement is hindered by resource availability.<sup>116</sup> Civil society demands improved resource mobilisation for water services and reforms that are inclusive.<sup>117</sup> Lastly, the Cameroon Human Rights Commission<sup>118</sup> seeks to advance the right to water, but its success depends on the government's willingness to carry out its suggestions and supply sufficient resources. To enhance the implementation of pertinent laws and policies, greater cooperation between the government, legal professionals and civil society is recommended.<sup>119</sup> Alongside the problem of justiciability, there are also insufficient and ineffectual institutional and legal frameworks in existence. This

113 UNOPS 'Cameroon Water Supply Project' Project Document, United Nations Office for Project Services (2022) 5.

114 DW (*Deutsche Welle*) 'Cameroon's Village Water Tower Project' (2003) 2, <https://www.dw.com> (accessed 15 October 2025).

115 Fonjong & Ngoufo (n 17) 1231-1344.

116 Water Code (n 82).

117 Global Water Partnership (GWP) *Country brief: Cameroon* (Global Water Partnership 2021), <https://www.gwp.org> (accessed 15 October 2025).

118 Law 2019/019 of 24 December 2019 establishing the Cameroon Human Rights Commission.

119 UN Report on Human Rights and Access to Water in Cameroon (ReliefWeb and UN-OCHA Reports 2023).

scenario limits the ability of ordinary citizens to challenge laws and policies pertaining to the right to water in court, mainly because of severe *locus standi* requirements and a judiciary that is strongly influenced by the executive branch.

Village organisations play a vital role in guaranteeing access to water, underscoring the significance of teamwork in addressing this basic human right. Through their programmes, they raise awareness and gather support to increase everyone in the community's access to water.

#### 4 South Africa's approach to protecting water rights

The Constitution of the Republic of South Africa, 1996 is a globally recognised document that mandates all state organs and individuals to uphold the right to water access. Section 27(1)(b) grants everyone the right to sufficient water access, and section 27(2) requires the state to implement reasonable legislative measures to realise this right. The government, including national, provincial and municipal spheres, must work together to ensure this.<sup>120</sup> Although all three spheres of government are obligated to realise the right to access sufficient water, the local government has the primary duty to provide water services.<sup>121</sup>

South Africa's legislative framework protects the right to water primarily through the Constitution's Bill of Rights, which guarantees access to sufficient water. The 1997 Water Services Act and the 1998 National Water Act both provide additional support in favour of this. These laws establish institutional frameworks for the sustainable management of water resources, assert the right to basic water and sanitation services, and call for government action to ensure access.

This part examines South Africa's legal and regulatory framework that gives effect to these constitutional provisions on the right to water, highlighting the state's responsibility in ensuring adequate

<sup>120</sup> Sec 40(1) of the Constitution states: 'In the Republic, the government is constituted as national, provincial, and local spheres of government, which are distinctive, interdependent, and interrelated.'

<sup>121</sup> Sec 156(1)(a) and sch 4B of the Constitution read together with secs 3 and 11 of the WSA; see O Fuo 'Intrusion into the autonomy of South African local government: Advancing the minority judgment in the *Merafong City* case' (2017) 18 *Potchefstroom Electronic Law Journal* 325; O Fuo 'The right of access to sufficient water in South Africa: Comments on *Federation for Sustainable Environment and Others v Minister of Water Affairs*' (2013) 20 *Murdoch University Law Review* 25-26.

water availability. It also discusses relevant case law on the right to water.

#### 4.1 South African legislative, regulatory and framework provisions on the right to water

The constitutional right to sufficient water access is given legislative effect by the Water Services Act.<sup>122</sup> All provisions of the Water Services Act are intended to ensure an adequate water supply and an environment that is not harmful to human health or well-being.<sup>123</sup> Section 3(1) of the Water Services Act ensures everyone can access a primary water supply, promoting life and personal hygiene.<sup>124</sup> Section 3(2)(3) mandates water service authorities to implement reasonable steps for basic water provision, while section 5 prioritises it over other uses such as commercial uses. Sections 9 and 10 allow the minister to enforce national standards for water service provision. The Water Services Act allows the minister to set water service tariffs, considering social equity and financial viability. The Water Services Act grants the national government legislative and executive authority to oversee municipalities' water service delivery.<sup>125</sup> It mandates municipalities to ensure safe, efficient, equitable and reliable services for all consumers,<sup>126</sup> and requires reasonable emergency water supply procedures in their areas.<sup>127</sup> The National Water Act (NWA) of 1998 in South Africa upholds the right to water guaranteed by the Constitution by establishing a framework that encourages equitable and sustainable water use and guarantees that water resources are protected, managed and used to meet national needs. Together with the Water Services Act, which focuses on basic water supply and sanitation, it established the government as the public trustee of water, responsible for its equitable distribution, and entrusted with its implementation through the Department of Water and Sanitation. The NWA and the Water Services Act must be read together to encourage improved water resource management.<sup>128</sup>

By emphasising the government's legal obligations to gradually provide for everyone's right to access a sufficient basic water supply

122 Water Services Act 108 of 1997(WSA).

123 Sec 2(a) WSA.

124 Sec 1(iii) WSA.

125 Sec 63 WSA.

126 Sec 11(1) WSA.

127 Sec11(4)(5) WSA.

128 National Water Act 36 of 1998 (NWA). The National Water Act ensures that South Africa's water resources are protected, used, developed, conserved, managed, and regulated in a way that is equitable and sustainable for the benefit of all people.

and sanitation services, the Water Services Act positively impacts the human right to water. It defines minimum standards, requires municipalities to develop plans for water services, and promotes equitable and effective service delivery to all South Africans.

In 2001 the ministerial<sup>129</sup> Regulations Relating to Compulsory National Standards and Measures to Conserve Water were adopted.<sup>130</sup> The 2001 Regulations laid the groundwork for the right to a sufficient water supply. Regulation 3 obliges municipalities to provide basic water, at least 25 litres per person or six kilolitres per household per month, and ensure adequate supply.<sup>131</sup> This policy aims to ensure that everyone has access to sufficient water,<sup>132</sup> while Regulation 5 addresses the quality of drinking water. The Strategic Framework for Water Services<sup>133</sup> outlines the responsibility of water services authorities to invest in basic water services, promoting improved water resource management, equitable access, pollution reduction and social and economic development, ensuring that the nation's water resources are protected, used, developed, conserved and managed.<sup>134</sup>

The National Framework for Municipal Indigent Policies programme, approved in 2006, aims to help local governments meet the needs of disadvantaged communities by providing free basic water services.<sup>135</sup> This programme establishes the framework for impoverished people to receive free basic water services. It defines 'indigent' as lacking access to necessities such as water, sanitation, electricity, health care, housing, food and clothing.<sup>136</sup> The Indigent Policy mandates municipalities to provide water to indigent households,<sup>137</sup> requiring continuous operation for a minimum of 350 days annually, without interruptions lasting up to 48 hours.<sup>138</sup> However, this policy has been criticised for low essential services due to the misconception that indigent households consume or require fewer water services than average households.<sup>139</sup>

129 Sec 10 WSA.

130 GNR 509 in GG 22355 of 8 June 2001.

131 Reg 3 of GNR 509 in GG 22355 of 8 June 2001.

132 See Norms and Standards Regarding Tariffs for Water Services in sec 10(1) of the WSA.

133 Department of Water Affairs and Forestry (DWAF) *Strategic Framework for Water Services* (Government of the Republic of South Africa 2003).

134 Sec 2(a)(b) NWA.

135 Department of Provincial and Local Government (DPLG), now Department of Cooperative Governance and Traditional Affairs (CoGTA) *National Framework for Municipal Indigent Policies* (2006) 6.

136 CoGTA (n 135) 13.

137 CoGTA (n 135) 21-22.

138 CoGTA (n 135) 21.

139 ON Fuo 'Local government indigent policies in the pursuit of social justice in South Africa through the lenses of Fraser' (2014) 25 *Stellenbosch Law Review*

South Africa also boasts important water management institutions that help in accomplishing the right to have access to water. The principal governmental body in charge of supervising the management of water resources is the Department of Water and Sanitation. State-owned organisations known as water boards oversee dams, maintain the infrastructure required for bulk water supply, and provide municipalities with technical guidance.<sup>140</sup> Rand Water (Gauteng), Umgeni Water (KwaZulu-Natal) and Overberg Water are a few examples.<sup>141</sup> Some specific areas of the nation are set aside for the preservation, development and control of water resources, which are known as water management areas. To manage water resources within assigned water management areas, catchment management agencies are set up.<sup>142</sup> Water service development plans are frequently created by water services authorities, which are municipalities charged with guaranteeing access to water services in their jurisdictions. Water management institutions play a vital role in South Africa in safeguarding the human right to water by delivering necessary infrastructure, overseeing resources and guaranteeing fair service provision. They operate within legal structures, including the National Water Act, to sustainably manage water resources, safeguard public health, and progressively realise the constitutional right to access sufficient, safe and affordable water for every citizen.

## 4.2 Case law and implementation practices

The South African Constitutional Court decided the *Mazibuko & Others v The City of Johannesburg & Others*<sup>143</sup> (*Mazibuko*), establishing and interpreting for the first time the right to sufficient water access. The *Mazibuko* decision was subsequently criticised in the High Court decision in *Federation for Sustainable Environment & Others v Ministry of Water Affairs & Others*.<sup>144</sup>

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140 South Africa Year Book 2023/2024, Water and Sanitation, <https://www.gcis.gov.za/sites/default/files/docs/gcis/pdf/yearbook2023-24-21%20Water%20and%20Sanitation%202023-24.pdf> (accessed 6 October 2025).

141 South Africa Year Book (n 140) 4.

142 Water Conservation and Demand Management Strategy for the Agricultural Sector, [https://www.gov.za/sites/default/files/gcis\\_document/201409/wateragric0.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/wateragric0.pdf) (accessed 6 October 2025).

143 The High Court, Supreme Court of Appeal and Constitutional Court judgments are cited respectively as *Mazibuko v The City of Johannesburg* Case 13865/06 [2008]; *City of Johannesburg & Others v Lindiwe Mazibuko & Others* Case 489/08, 2009, ZA SCA 20; and *Mazibuko & Others v City of Johannesburg & Others* 2010 (3) BCLR 239 (CC) (*Mazibuko*). The focus here is on the Constitutional Court judgment.

144 *Federation for Sustainable Environment & Others v Minister of Water Affairs & Others* (35672/12) [2012] ZAGPPHC 128 (10 July 2012) – SAFLII.



The applicants<sup>145</sup> in *Mazibuko* claimed that the city of Johannesburg had violated the constitutional right to access to sufficient water by providing 25 litres of water per person daily and installing prepaid meters to restrict water consumption in Soweto.<sup>146</sup> The pre-payment water meter automatically cut off the water flow when the free water allotted had run out until more water credit had been purchased. As a result, to survive, low-income families were forced to borrow money or water from their neighbours since they lacked the money to buy more water. Since the water was restricted, residents had to choose between bathing, washing their filthy linens or flushing their toilets. These prepaid meters were introduced in Phiri by the City of Johannesburg Local Government in 2004.<sup>147</sup>

The application addressed two critical issues: (a) whether section 27 of the Constitution was complied with by the City's Free Basic Water Policy, specifically its decision to provide 25 litres of free water per person per day or 6 kilolitres of free water per household per month; and (b) whether the prepayment water meters were legal.<sup>148</sup> Both the High Court and the Supreme Court of Appeal rendered rulings in the applicants' favour by granting them a particular quantity of water, but the quantity set by the Supreme Court was lower than that granted by the High Court. The applicants requested permission to appeal to reinstate the High Court's order awarding 50 litres per person.<sup>149</sup> On 8 October 2009 an appeal against the Supreme Court of Appeal was brought before the South African Constitutional Court.

145 Residents in Phiri, a township of Soweto, near Johannesburg; Phiri is one of the neighbourhoods that make up the more significant part of Soweto, which is part of Johannesburg City and is largely populated by impoverished and uneducated inhabitants. As one of the oldest townships in Soweto, Phiri is characterised by gross inequality in service delivery. The township has been neglected to the extent that water infrastructure has become obsolete, with poor piping resulting in water losses that cannot be accounted for.

146 *Mazibuko* (n 143) para 6.

147 These prepaid meters systems were implemented through an operation referred to as 'Operation Gcinamanzi'. This policy effort had a double objective: (a) the recovery of outstanding debts from residents of Phiri for unpaid water services; and (b) to save water by improving the infrastructure for the provision of services, preventing wasteful water activities and reducing demand.

148 P Bond & J Dugard 'The case of Johannesburg water: What really happened at the pre-paid "parish pump"' (2008) 12 *Law, Democracy and Development* 9.

149 *Mazibuko* (n 143) paras 26 & 27: It found, among other things, that the City's bylaws did not allow for pre-paid meters and that the installation, therefore, was illegal. The meter caused unconstitutional and unreasonable discontinuation of the water supply because it stopped it after six kilolitres had been used; the procedure for installing the meters was illegal and unfair. The City's Free Basic Water Policy was irrational and unreasonable. Significantly, the Court ruled that the City should provide a free basic water supply of 50 litres per person per day for the applicants and all similar residents of Phiri. For the SCA decision, see *Mazibuko* (n 143) paras 28 & 29.

The Constitutional Court ruled that the City's Free Basic Water Policy was reasonable and in compliance with national water supply laws and constitutional section 27. It overturned the Supreme Court of Appeal and High Court's rulings. In determining the scope of the state's positive obligations, the Court deemed prepaid meter installation to be legal. The Constitutional Court assessed the state's constitutional obligation under sections 27(1) and (2), determining that providing adequate water access would take time, and the Court must determine its scope of access by all.

The Court ruled that the Constitution's section 27(1)(b) allowed the government to gradually realise citizens' basic water rights with the available resources.<sup>150</sup> The City of Johannesburg complied with this responsibility by regularly updating its policies, which is aligned with the obligation of progressive realisation.<sup>151</sup>

Scholars have criticised the Constitutional Court's ruling in *Mazibuko* for failing to address the poor residents' suffering and supporting privatisation of water services.<sup>152</sup> According to Dugard, a rights-based solution would have satisfied the needs of people experiencing poverty, while also reducing water waste and achieving urban cost-recovery criteria, but the Constitutional Court disregarded these considerations.<sup>153</sup> However, the ruling has improved our understanding of South Africa's water situation, recognising the right to water.

*Mazibuko* clarified that in order to gradually provide access to sufficient water within its available resources, the state must take reasonable measures rather than just providing a minimum core quantity of water in order to uphold the human right to water in South Africa. In addition to affirming that the right to water is a fundamental constitutional right rather than a contractual entitlement, the case established the judiciary's role as a venue for holding the legislative and executive branches accountable in the realisation of these socio-economic rights and, in the end, validated the City of Johannesburg's free basic water policy as reasonable.

150 *Mazibuko* para 50.

151 For details, see *Mazibuko* paras 67, 78-79.

152 P Bond & J Dugard 'Can human rights transcend the commercialisation of water in South Africa? Soweto's legal fight for an equitable water policy' (2010) 42 *Review of Radical Political Economics* 175-177; W Stuart & J Dugard 'Taking poverty seriously: The South African Constitutional Court and socio-economic rights' (2011) 22 *Stellenbosch Law Review* 664-682; P de Vos 'Water is life (but life is cheap)' 2009, <http://constitutionallyspeaking> (accessed 13 July 2019).

153 Bond & Dugard (n 152) 177.

The applicants in *Federation for Sustainable Environment*<sup>154</sup> argued that the water supply to residents of Silobela between March and May 2012 was insufficient since some water tanks had not been replaced and others had been left entirely dry. Many households were forced to trek considerable distances to acquire water from neighbouring tanks since the tanks were filled on a 'first-come, first-served' basis.<sup>155</sup> The applicants claimed that in violation of Regulation 3(b) of the 2001 Regulations, residents of the town of Carolina lacked a reliable water supply beyond the initial seven-day limit. They claimed that the absence of water seriously infringed their right to water.<sup>156</sup> The applicants further suggested that the respondents should work with communities and other interested and affected parties to ensure that residents have access to drinkable water and that the mines in the area do not contaminate the water.<sup>157</sup> The Gauteng High Court affirmed that in order to address the water crisis realistically, the municipality must collaborate with residents to establish a water supply,<sup>158</sup> after reviewing obligations imposed by the Constitution on respondents to ensure water supply,<sup>159</sup> and the urgency of the matter which primarily concerned the embedded right of access to water. The Court ordered the municipalities to provide emergency drinkable water to inhabitants of the impacted localities within 72 hours, in line with the 2001 Regulations. These were also minimal requirements from the National Indigent Policy and Water Services Act. The Court ruled that a municipality violated the right to water access by disconnecting services without notice for non-payment of arrears,<sup>160</sup> confirming earlier case law that disconnecting water without a fair process violates one's right to water. Finally, the municipalities were asked to report on the efforts to deliver potable water to the impacted villages in Mpumalanga within a month of the Court's decision.<sup>161</sup>

In contrast to *Mazibuko*, which focused on the government's responsibility to create a comprehensive, long-term plan to progressively fulfil the right to water and avoided setting a minimum water quantity, *Federation for Sustainable Environment* stressed the

154 An NGO and residents of Silobela, situated on the outskirts of Carolina Mpumalanga Province, complained of contaminated 'acid mine water' unsuitable for consumption. To relieve the population's plight in the affected communities, in February 2012, some 20 water tanks were brought from the neighbouring towns of Breyten and Chrissiesmeer to supply water to Carolina and Silobela surrounding areas.

155 ZAGPPHC 128 (n 144) para 5.

156 ZAGPPHC 128 para 6.

157 ZAGPPHC 128 para 7.

158 ZAGPPHC 128 para 24.

159 ZAGPPHC 128 para 18.

160 2002 (6) BCLR 625 (W) paras 20, 27 & 34.

161 ZAGPPHC 128 para 26(2).

need for quick and immediate assistance for residents to ensure adequate and reliable drinking water. The High Court in this case ruled that it was illegal to stop providing water for more than seven days and that interim solutions were needed. This ruling supersedes that of *Mazibuko* as quick and immediate supply water was demanded.

## 5 Comparative analysis and lessons learned

This analysis compares the legislative frameworks of Cameroon and South Africa on human rights to water, highlighting the differences and best practices that can be adopted to promote the right to water in Cameroon.

First, Cameroon's Constitution does not explicitly recognise the right to access water but it is implied in the environmental provision and arguably under the Constitution's Preamble which expresses broader concerns about the need to respect economic and social rights. Given that under international human rights law water rights are regarded as a component of economic and social rights, it is possible to conclude that Cameroon's Constitution implicitly recognises water rights. The Cameroonian Constitution does not elaborate on what is understood by a right to water. However, the international obligations by which Cameroon are bound help to give content to this right. Nevertheless, the enforceability of a human right to water in Cameroonian context is challenging due to it being implied in the Constitution's Preamble, which may not create enforceable rights and duties. Similarly, the Cameroonian Constitution merely provides a superficial provision on the right to a healthy environment, under which the right to water lacks adequate, detailed and well-crafted content relevant to the area of application, enforcement and limitation.<sup>162</sup> In this light, the validity of Cameroon's right to water remains in question, as the Constitution appears to be too weak to specifically compel the state to ensure respect for and protection of the right.

By contrast, South Africa's Constitution includes a Bill of Rights that guarantees access to sufficient water. The inclusion of human rights, including the right to water in the Constitution, is a major step towards the defence of human rights. The constitutional water clause, viewed through the prism of a human rights-based

<sup>162</sup> Other jurisdictions also guarantee the right to water in the Constitution, including the Constitution of the Democratic Republic of the Congo, 2006, art 48; the Constitution of Kenya, 2005, sec 65; the Constitution of the Republic of Uruguay, 1967, as last amended in 2004, art 47; and the Constitution of the Federal Republic of Ethiopia, 1994, art 90.

perspective, establishes the foundation for the protection of the human right to water.

Section 27 of the South African Constitution unambiguously defines the meaning and object of the water right, guarantees everyone the right to have access to sufficient water, and requires the state to take appropriate legislative and other measures within its resources to ensure that the water right is progressively realised. Aside from requiring the state to implement and carry out regulatory and other measures, section 7(2) of the Constitution also mandates that the state respect, protect, promote and fulfil the right to access sufficient water.

Second, Cameroon's 1998 Water Code, although existing, faces inadequate implementation and effectiveness.<sup>163</sup> Article 2 of the Water Code recognises all to have access to water and states that water is a public good or utility for which the state is responsible for its protection and management and for facilitating access. Nevertheless, article 2(1) of the Water Code provides that '*l'eau est un bien du patrimoine national dont l'état assure la protection et la gestion et en facilite l'accès à tous*'.<sup>164</sup> According to this provision, the state maintains water protection and management, but simply *facilitates* rather than *guarantees* all Cameroonians' access to it. This law is thus ambiguous and may be interpreted to mean that access to water is not a human right on which citizens can depend to file a lawsuit if their right is not realised. Arguably, the intent of this provision is to acquit the state of any duty for providing water access, which could potentially slow down water access measures.

Conversely, in South Africa the enactment and execution of legislation and policies, such as the Water Services Act,<sup>165</sup> the 2001 Water Regulations and the National Framework for Municipal Indigent Policy of 2006, give further substance to this right. According to the Constitution, the national government remains the custodian of the nation's water resources and plays the regulatory function. As previously stated, section 27(2) compels the state to use its available resources to take reasonable steps to realise this right. As a result, municipalities are required by the Water Services Act to provide an essential water supply to ensure sufficient water for human well-being. The Water Services Act and the 2001 Regulations define the water right and establish the conditions under which water supply

<sup>163</sup> Water Code (n 82).

<sup>164</sup> Water is a public resource that the state must protect and manage, while ensuring equitable access for all.

<sup>165</sup> Water Service Act, 1997 (South Africa).

may be regulated or terminated to secure long-term access to water. The National Indigent Policy 2006 prioritises the water needs of impoverished and vulnerable community members.

Third, in Cameroon no court decision has to date defined the nature and scope of the right to water, unlike in South Africa. In South Africa, case law has ensured that the state complies with its obligations regarding human rights to water. The nature of the obligations imposed on the state was established by the Constitutional Court's decision in the landmark case of *Mazibuko*. The Court in *Mazibuko* reaffirmed that sections 26 and 27 of the Constitution placed a substantial obligation on the state to gradually realise the right to water. Although the *Mazibuko* decision was criticised, the judiciary's role in the litigation of the right to water and identifying that the legislative and executive branches of government should add normative content to the right to access to sufficient water in the Constitution is remarkable. Cameroon could take a lesson from South Africa's example and adopt a similar human rights approach to water.

Fourth, in Cameroon, there is a clear lack of implementation of the right to clean water. In Cameroon, protected areas have not been instituted around water catchments as required by article 7 of the Water Code.<sup>166</sup> As a result, there have been numerous egregious human rights violations in Cameroon regarding the right to water. The state has allowed and continues to authorise numerous development projects close to water resources without adequate respect for preserving the right to clean water. In a recent LandCam workshop, women living near agricultural business plantations denounced the various forms of abuse they faced.<sup>167</sup> Women from Bidou II village, Ocean Division, surrounded by three industrial concessions, complained that companies regularly dump waste into water courses used for drinking by the local communities, indicating that this has harmed soil quality and that water rights have received comparatively less attention.<sup>168</sup> Diseases spread throughout communities in Bidou II, as well as in the Dja division linked to a rubber company's activities and in the Fuguil north region linked to mining activities, as a result of the degradation of water quality caused by the release of various chemicals into water streams by

166 Art 7(1) Water Code: To protect drinking water quality, a protected area is hereby instituted around water catchments, water treatment and storage points. (2) Lands within the protected area shall be declared to be of public interest.

167 E Etoga 'It is not just land; water rights under threat' (2020), Amadle.seigneret@iied.org (accessed 4 August 2020).

168 See article on Bidou II village struggles with industrial concessions.

polluting companies.<sup>169</sup> Furthermore, constructing a dam project in the Dja and Lobo divisions in the eastern region has dramatically altered the terrain, making fishing and access to clean water more challenging.<sup>170</sup> Also, water-intensive industries that capture resources for irrigation and other uses, such as the banana-producing company in the Littoral region, decrease water availability, leading to conflicts between local populations and companies. Even with the help of community projects to provide water to the indigenes, they are faced with the destruction of their catchment areas. In 2014, the indigenes of Kuk village in the north-west region of Cameroon decried the destruction of a protected area around their water catchment, which the authorities neglected despite several complaints lodged against a third party. This village constantly lacks drinking water during the dry seasons as the catchment area is exposed to direct sunlight. The provisions of the Water Code have not been implemented as stated.

Conversely, in the South African case of *Federation for Sustainable Environment*, as explained above, concerning a complaint by citizens of contaminated 'acid mine water' that was not fit for consumption, the Court ordered the municipalities to provide emergency drinkable water to inhabitants of the impacted localities within 72 hours, following the 2001 Regulations. Apart from joining mining companies responsible for water pollution in the Carolina area as co-respondents, Fuo has also argued that the applicants and their legal representatives had the option of filing a separate lawsuit to compel mining companies involved in the pollution of water resources in the Carolina area to take proactive measures. It will prevent the further pollution of water resources or compel them to clean up the pollution of affected land areas.<sup>171</sup> Fuo suggests that filing a separate law suit against mining companies involved in water resource pollution in the Carolina community, despite evidence issues and time constraints, to signal their negligence and potential consequences to affected communities would have sent a strong message to mining companies and other industries. It would alert them that their increasing negligence and pollution of South Africa's scarce water resources will not be taken lightly by affected citizens and civil society.<sup>172</sup> The Cameroonian government may adopt a similar approach to safeguard citizens' water rights,

169 UNICEF WASH, Cameroon, Water, Sanitation and Hygiene annual results report (2021) that only 43 per cent of the population has access to basic sanitation, with 58 per cent coverage in urban areas and 22 per cent in rural communities. Diarrhoea diseases account for 16 per cent of under 5 mortality rates, resulting in over 7 000 child deaths annually due to unsanitary conditions.

170 See study on Dja and Lobo division construction projects effects.

171 Fuo 'The right of access to sufficient water in South Africa' (n 121) 36-37.

172 As above.

promoting environmental health and safeguarding against third-party infringements.

As explained above, the various policies adopted by South Africa to enhance access to sufficient water could also be followed and applied by Cameroon. Particularly, the section 27 constitutional recognition of a water right obliges the state to ensure that everyone has access to sufficient water and adopt appropriate legislative and other measures within its available resources to ensure that the water right is progressively realised. It also confers an obligation on the citizens and the state to respect, protect, promote and fulfil the right to access sufficient water. Unfortunately, the law and policies in Cameroon detract from the government's obligations and responsibilities to ensure complete access to adequate water. In South Africa, both the legal framework and case law have repeatedly been applied to enforce human rights, such as having access to sufficient water and protection from third-party infringement of the right.

## 6 Conclusion and recommendations

This study has examined water rights as a human right under international, African regional and the national laws and policies of Cameroon and South Africa. In conclusion, while the realisation of the right to water in Cameroon is crucial for the well-being of its citizens and despite the country's ratification of international treaties and conventions recognising water rights, the legislative framework in Cameroon remains inadequate. The Constitution's lack of explicit recognition of the water right and the challenges in implementing the Water Code hinder the realisation of this right.

Access to safe drinking water is a fundamental human right recognised by international and African regional human rights law. UN General Assembly Resolution A/RES/64/292 of 2010 established this right in international human rights law. State parties have a primary duty to protect, promote and fulfil this right, and nations have a binding commitment to respect it. Cameroon must therefore recognise this human right. Recognising water rights is crucial for human existence, ensuring sufficient, accessible and affordable clean water for personal and domestic use.<sup>173</sup> This right applies to everyone, regardless of economic status, ensuring life and health.<sup>174</sup>

<sup>173</sup> General Comment 15 (n 1).

<sup>174</sup> H Smet *Le droit à l'eau* (2002) 1.



In order to comply with its obligations under the water right, Cameroon can draw lessons from South Africa, which has made significant progress in recognising and realising this right through a constitutional dispensation and implementation policies and regulations. In light of the aforementioned, Cameroon could benefit from South Africa's model by starting a process of reconceptualising, reformulating and recalibrating what constitutes the scope, content, as well as implementation of the human right to water; establishing the responsibilities of public and private entities for preserving this right; and ensuring that the water right is protected by law against both public and private entities.

By enacting legislation that explicitly recognises the right to water and establishing institutional mechanisms to promote and protect this right, Cameroon can take a crucial step towards ensuring access to clean water for all its citizens. This would require a concerted effort from the government, civil society and other stakeholders to prioritise the realisation of the right to water and address the challenges facing the water sector in Cameroon.

The following is recommended as reforms that could improve the realisation of the right to water in Cameroon.

The relevant actors in Cameroon should establish a strong legal foundation for the realisation of the right to water by explicitly incorporating the right to have access to adequate and safe water into the Constitution. Beyond its existing emphasis on environmental protection as a citizen's duty, Cameroon could include a more substantial definition of this right in its Constitution and other legislation. Cameroon should establish a comprehensive legislative framework for water and sanitation that outlines precise guidelines, roles, and procedures to guarantee universal access, similar to South Africa's Water Services Act.

Cameroon should further guarantee that water-related policies are implemented and enforced effectively, establish or strengthen independent organisations devoted to the advancement and defence of human rights, particularly the water rights. This is dealt with through the court cases of *Mazibuko* and *Federation for Sustainable Environment* in South Africa.

Like the National Framework for Municipal Indigent Policies programme, 2006 in South Africa, Cameroon should adopt a human rights-based approach to water administration by giving vulnerable and marginalised populations priority and ensuring that services are high-quality, dependable, reasonably priced and easily accessible.

Cameroon should Increase funding for water infrastructure and services, particularly in rural and underserved areas, to ensure equitable access to clean water through empowerment of NGOs and village development associations, to foster community engagement and participation in water management and decision-making processes, thereby ensuring that water services meet the needs of local communities. It should also establish mechanisms for monitoring and holding accountable national and private stakeholders to ensure that water services meet human rights standards and that individuals have access to effective remedies when their rights are violated. Specialised legal channels where people and communities can seek efficient redress for water access-related human rights abuses should also be established.

The experience of South Africa demonstrates that strong public participation and information availability are essential for efficient water governance. In order to fight corruption and inefficiency, Cameroon should bolster its laws pertaining to access to information and put in place procedures for the open and democratic participation of people and communities in the design and administration of water services.