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Transformative Water and Sanitation Governance in Africa: A Human Rights and Reparative Justice Approach

Uchenna Emelonye[1]

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Abstract: *Across Africa, water and sanitation governance has undergone significant policy evolution through continental frameworks such as Agenda 2063 and the most recent Africa Water Vision launched in February 2026. Despite these landmark normative advances spanning over two decades, access to clean water and sanitation across the continent remains deeply engendered, with women and marginalised communities bearing disproportionate burdens. This article argues that the prevailing water and sanitation governance models in Africa, which are majorly infrastructure-driven and technocratic are inadequate to address the systemic inequalities inherent in the Africa water and sanitation architecture. Drawing on related rights-based and feminist theories, the article reconceptualises Africa water and sanitation crisis as a matter of rights rather than service delivery and postulates the notion of reparative and transformative water and sanitation governance. Using comparative insights, it demonstrates that gendered exclusion, power asymmetries, weak accountability mechanisms and market-driven dynamics reproduce inequality in water and sanitation access. It concludes that attaining maximum and equitable water and sanitation access in Africa requires a gender-centric governance shift and institutional and regulatory frameworks that regulate corporate actors and redistribute power.*

Keywords: transformative water sanitation governance, africa: human rights, reparative justice

INTRODUCTION

The African Union (AU) has had a long history of involvement in water and sanitation governance across the continent.[2] While a lot of Africans lack access to clean drinking water and safe sanitation services, many others are prone to various water and sanitation related health and economic anomalies. Similarly, while the economic cost of inadequate water and sanitation in Africa undermines growth, negatively impacts industrialization and stalls human capital development, women and children bear the greatest burden as they remain the primary managers of household water across the continent, spending billions of hours annually collecting water under physically demanding and often unsafe conditions.[3]

[1] Former United Nations Human Rights Envoy and Visiting Professor of Human Rights Law at Bournemouth University, United Kingdom. Professorial Researcher, College of Law, SOAS University of London.

[2] Adams, E. A., Sambu, D., & Smiley, S. L. (2019). Urban water supply in Sub-Saharan Africa: historical and emerging policies and institutional arrangements. International Journal of Water Resources Development, 35(2), 240-263.

[3] Addae, E. A., & Adu, D. (2020). Investigating water poverty in sub-Sahara Africa: Addressing the potentials for water resources

Initially perceived and articulated as development priority, Africa water and sanitation vision and policy gradually gravitated towards accountability and rights-based framing and was consequently integrated into the Agenda 2063. The framing of water and sanitation in Africa as more of a development priority and infrastructure challenge and less of a gender equality and human rights issue was in 2000 when the African Ministers' Council on Water (AMCOW) pioneered the adoption of the Africa Water Vision 2025. This climaxed the repositioning of water and sanitation as critical resource for regional integration and sustainable development and enablers of poverty reduction.[4] Eight years after, the African Heads of State convened in 2008 and through the Sharm El-Sheikh Commitments on Water and Sanitation escalated water and sanitation to the highest political level, including advocating for universal access to safe water and sanitation and procuring member states commitments to increase budgetary allocation to water and sanitation.[5]

Based on the Sharm El-Sheikh Commitments, the AMCOW initiated efforts at institutional coordination and accountability systems in water and sanitation, including strengthening regional cooperation across River Basin Organisations, formation of the Africa Water and Sanitation Sector Monitoring and Reporting System (WASSMO) and establishment of continental benchmarks and reporting frameworks, The paradigm shift towards gender-centric water and sanitation in Africa emerged with the adoption of the Ngor Commitments on Sanitation and Hygiene which drew a continental distinction between water and sanitation.[6] Considering that sanitation was more neglected in the continent than water, it called for the ending of open defecation in the continent by 2030.[7]

Water and sanitation were later integrated in the African Union long-term development blueprint. Under the Agenda 2063, water and sanitation were elevated as peace and security issues, recognized as public health prerequisites, essentials for environmental sustainability and sustainable development. Also, the water and sanitation challenge became no longer an issue of public policy articulation, but translated into a continental rights-based and gender-responsive national implementation framework. The climax of water and sanitation trajectory in Africa and the fucus towards implementation-focused interventions culminated with the designation of 2026 as the African Union year of water and sanitation on the theme "Assuring Sustainable Water Availability and Safe Sanitation Systems to Achieve the Goals of Agenda 2063" including the adoption of the Africa Water Vision and Policy 2063.

management, and policy implications. International Journal of Scientific Research in Computer Science, Engineering and Information Technology, 6(6), 57-64.

[4] Mutschinski, K., & Coles, N. A. (2021). The African Water Vision 2025: its influence on water governance in the development of Africa's water sector, with an emphasis on rural communities in Kenya: a review. Water policy, 23(4), 838-861.

[5] Ani, K. J., Jungudo, M. M., & Ojakorotu, V. (2018). Aqua-conflicts and hydro-politics in Africa: Unfolding the role of African Union water management interventions. Journal of African Union Studies, 7(1), 5-29.

[6] Coultas, M., Chanza, M. M., Iyer, R., Karangwa, L., Kariuki, J. E., Kosugi, H., ... & Ssemwanga, D. K. (2022). Galvanising and fostering sub-national government leadership for area-wide sanitation programming. H2Open Journal, 5(1), 1-10.

[7] Fagunwa, O. E., Mthiyane, T., Fagunwa, A., Olayemi, K. I., Alozie, A., Onyeaka, H., ... & Ojo, A. (2025). Priority regions for eliminating open defecation in Africa: implications for antimicrobial resistance. Environment, Development and Sustainability, 27(1), 2675-2699.

While the African Union frameworks on water and sanitation in Africa gradually transited from a narrow lens of a technical sector issue to a broader continental political priority and attempted normative convergence with international human rights law, key structural challenges remain, including the limited gender-centric implementation lens and emerging tension between commercial water use and human right.[8]

Reframing Water and Sanitation Governance

Despite robust and incremental continental commitments, the persistence of gender- blind and unequal access to water and sanitation across Africa reveal a fundamental limitation in prevailing governance models.[9] Contemporary continental approaches have to a great extent prioritised service delivery and infrastructure expansion thereby treating water and sanitation as a technical sector rather than a domain of human rights and justice. As a result, these approaches have unwittingly overlooked to address the deeper socio-legal structures that rightly or wrongly determine who has access, on what terms, and at what cost.[10]

Transformative water and sanitation governance therefore requires a paradigm shift from incremental, technocratic reforms to rights-based, equity-driven, gender-centric systems that reconfigure existing power imbalance, redistribute resources and institutionalise accountability. Aligned with continental commitments under Agenda 2063 and the Africa Water Vision and Plan, water and sanitation transformation in the continent demand less of continued policy proliferation and more of rights-centric institutional redesign and equitable enforcement.[11]

Water and sanitation governance across many African states reflects deep lopsidedness in power and decision-making authority, often concentrated within national water boards or urban-focused utilities. This monopolization frequently and inadvertently marginalises rural communities and informal settlements predominantly habited by women whose lived realities are inadequately reflected in policy design and implementation.

Across Africa, control and decision-making in the water and sanitation sector are characterised by a highly fragmented and multi-layered governance structure, in which authority is formally distributed across tiers of government, but in practice remains seldom participatory, weakly coordinated and unevenly

[8] Hutton, G., Haller, L., Water, S., & World Health Organization. (2004). Evaluation of the costs and benefits of water and sanitation improvements at the global level (No. WHO/SDE/WSH/04.04). World Health Organization.

[9] Bayu, T., Kim, H., & Oki, T. (2020). Water governance contribution to water and sanitation access equality in developing countries. Water Resources Research, 56(4), e2019WR025330.

[10] Filmer-Wilson, Emilie. "The human rights-based approach to development: the right to water." Netherlands quarterly of human rights 23.2 (2005): 213-241.

[11] Iribarnegaray, M. A., & Seghezzo, L. (2012). Governance, sustainability and decision making in water and sanitation management systems. Sustainability, 4(11), 2922-2945.

exercised.[12] While national Ministry of Water Resources sets broad policy direction implemented by subnational water agencies, this institutional arrangement has produced blurred accountability and significant governance gaps, particularly at the subnational level where capacity constraints and fiscal limitations are most pronounced. As a result, decision-making authority on water and sanitation are often centralised at sub- national level bureaucracies, with limited mechanisms for meaningful women participation or bottom-up accountability.[13]

From a political economy perspective, water governance in Africa reflects broader patterns of elite capture, urban bias, and infrastructural inequality. While public investment decisions tend to prioritise urban centres and politically visible projects, it is often at the expense of rural and peri-urban communities where water insecurity is most acute and where women are densely inhabiting.[14] In many cases, gaps in access to water and sanitation is ameliorated through informal systems such as private boreholes, water vendors, and community-managed sources which are male dominated and operate outside formal regulatory oversight. These parallel systems inadvertently shift control away from public institutions toward market actors and local elites, thus reinforcing inequalities in access, affordability and quality. Consequently, decision-making over water access across Africa is not merely administrative, rather it is deeply embedded in socio-economic hierarchies and power relations currently skewed against women.[15]

From a feminist lens, water and sanitation in Africa further reveals that control over water resources and governance processes are structurally gendered, with women largely excluded from formal decision-making spaces despite being the primary managers and users of water at the household and community levels. While women bear the burden of water collection, sanitation management, and unpaid care work, their representation and voice in water governance institutions is very insignificant and disproportionate. This exclusion reflects broader patterns of gender inequality in political and economic participation, and results in policies that inadequately address the specific needs, risks, and lived experiences of women and girls. There is no gainsaying the fact that the absence of gender-responsive decision-making mechanisms perpetuates a cycle in which those most affected by water insecurity in Africa have the least influence over its governance.[16]
Similarly, a rights-based perspective of water and sanitation in Africa reveals weaknesses in

[12] Tadadjeu, S., Ndjakwa, M., & Kamguia, B. (2025). Improving Access to Drinking Water and Sanitation in Developing Countries: Do Women Policymakers Matter?. The Journal of Development Studies, 61(9), 1478-1498.
[13] Otonoku, T., Awomuti, A., & Omata, D. (2021). Exploring the influence of gender empowerment on water, sanitation and hygiene: A study on peri-urban communities in Abuja, Nigeria. Open Access Library Journal, 8(5), 1-12.
[14] Dery, F., Bisung, E., Dickin, S., & Atengdem, J. (2021). 'They will listen to women who speak but it ends there': examining empowerment in the context of water and sanitation interventions in Ghana. H2Open Journal, 4(1), 231-243.
[15] Hirai, M., Graham, J. P., & Sandberg, J. (2016). Understanding women's decision making power and its link to improved household sanitation: the case of Kenya. Journal of Water, Sanitation and Hygiene for Development, 6(1), 151-160.
[16] Olagunju, A., Thondhlana, G., Chilima, J. S., Sène-Harper, A., Compaoré, W. N., & Ohiozebau, E. (2019). Water governance research in Africa: progress, challenges and an agenda for research and action. Water International, 44(4), 382-407.

control and decision-making structures and translates into limited accountability and weak recognition of water as an enforceable human rights. The absence of explicit constitutional recognition of the right to water in the constitutions of some African countries, coupled with weak regulatory enforcement mechanisms presupposes that citizens, especially women and children have limited avenues to challenge inequitable allocation or inadequate service delivery. In practice, this creates a governance environment in which access to water is shaped less by rights and more by ability to pay, economic and social status and geographic location. Transformative water governance in Africa therefore requires not only institutional reform, but a fundamental restructuring of decision-making processes to ensure participation, transparency, and accountability, grounded in the recognition of water and sanitation as basic human rights.[17]

From Commitments to Enforceable Obligations

A major weakness in water governance is the gap between normative commitments and enforceable accountability mechanisms. While many African states recognise access to water as a constitutional or legal right, or as a policy priority, enforcement remains inconsistent.[18] In South Africa, the constitutional recognition of the right to water has enabled litigation, most notably in Mazibuko v City of Johannesburg, where the courts engaged directly with issues of access and state obligations. The Constitutional Court affirmed judicial deference to policy choices within resource constraints and held that the right to water is not a fixed minimum quantity, but requires reasonable state measures for progressive realization.

In Kenya, the enactment of the Water Act 2016 marked a significant milestone in strengthening regulatory oversight and restructuring the governance of the water and sanitation sector in line with the country's constitutional framework. Building on the Constitution of Kenya (2010), which in Art. 43 recognises access to clean and safe water in adequate quantities as a fundamental right, the Act sought to operationalise a more coherent, decentralised, and accountable system of water governance. From a rights-based governance perspective, the Water Act 2016 represents an important step toward translating constitutional guarantees into enforceable obligations.[19] By establishing regulatory standards, complaint mechanisms, and performance monitoring systems, it creates pathways, albeit imperfect, for holding service providers accountable to citizens as rights-holders rather than passive beneficiaries. Despite these legislative frameworks, challenges abound in fully realizing these rights, particularly in informal settlements and marginalised regions where service delivery is uneven and regulatory enforcement is constrained.

[17] Salman, S. M. (2018). The human right to water and sanitation: challenges and opportunities. Research Handbook on Freshwater Law and International Relations, 280-304.
[18] Dagdeviren, H., & Robertson, S. A. (2011). Access to water in the slums of sub-Saharan Africa. Development Policy Review, 29(4), 485-505.
[19] Ominde, D. (2019). A critique of the water act 2016: towards a human Rights-Based approach to the provision of water services in Kenya. Available at SSRN 3838040.

Importantly, while the regulatory framework has become more robust, its gender responsiveness remains uneven. Although WASREB and national policy frameworks recognise the importance of inclusivity, gender considerations are not consistently integrated into tariff-setting, infrastructure design, or performance metrics. As a result, the everyday realities of women and girls, particularly in relation to sanitation access, safety, and unpaid care burdens are not always adequately reflected in regulatory practice.[20] In sum, the Water Act 2016 significantly strengthened regulatory oversight in Kenya through institutions such as WASREB, introducing greater transparency, standardisation, and accountability. However, its transformative potential depends on addressing persistent challenges related to equity, enforcement, gender integration, and subnational capacity, which continue to shape outcomes in the sector.

In Nigeria, the constitutional, policy, and institutional framework for water and sanitation reflects a complex but weakly coordinated governance architecture, in which formal mandates exist but are often undermined by fragmentation, limited enforceability, and uneven implementation.[21] Unlike jurisdictions such as Kenya or South Africa, Nigeria does not explicitly recognise access to water and sanitation as a justiciable fundamental right under the Constitution of the Federal Republic of Nigeria 1999 (as amended). Instead, water-related provisions are situated within the Directive Principles of State Policy in Chapter II, which articulate state obligations to ensure adequate water supply but remain non-justiciable, thereby limiting their enforceability. This constitutional positioning reflects a broader governance challenge in which access to water is treated as a policy objective rather than a legal entitlement, constraining avenues for rights-based claims and accountability.[22]

At the policy level, Nigeria has made several attempts to articulate a coherent national framework for water governance. The National Water Resources Policy 2016 represents a significant effort to align the sector with principles of Integrated Water Resources Management (IWRM), sustainability, and equitable access. The policy recognises water as both an economic and social good and emphasises the need for participatory management, private sector engagement, and decentralised service delivery. It also reflects Nigeria's commitments to international and regional frameworks, including the Sustainable Development Goals and African Union water initiatives. However, despite its progressive orientation, the policy has faced challenges in implementation, largely due to institutional fragmentation, inadequate funding, and weak coordination across tiers of government.[23]

[20] Kayser, G. L., Rao, N., Jose, R., & Raj, A. (2019). Water, sanitation and hygiene: measuring gender equality and empowerment. Bulletin of the World Health Organization, 97(6), 438.

[21] Ajisegiri, B., Andres, L. A., Bhatt, S., Dasgupta, B., Echenique, J. A., Gething, P. W., ... & Joseph, G. (2019). Geo-spatial modeling of access to water and sanitation in Nigeria. Journal of Water, Sanitation and Hygiene for Development, 9(2), 258-280.

[22] Worugji, N. E. (2023). The Constitutional Right to Water and Water Governance In Nigeria: An Overview. Available at SSRN 5095209.

[23] Olukanni, D. O., Ajetomobi, M. O., Tebowei, S. O., Ologun, O. O., & Kayode, O. M. (2014). Water supply and sanitation challenges in an urban setting: A case study. International Journal of Engineering and Applied Sciences, 1(3), 258023.

From a rights-based governance perspective, this institutional arrangement presents significant limitations. The absence of explicit constitutional recognition of the right to water, combined with weak regulatory enforcement, means that citizens have limited mechanisms to hold duty-bearers accountable. Regulatory oversight of water service providers, especially informal providers such as private borehole operators and water vendors remains minimal, resulting in uneven service quality, price variability, and exclusion of low-income populations.

A gender analysis further reveals that the framework remains insufficiently responsive to the differentiated impacts of water insecurity. Women and girls disproportionately bear the burden of water collection and sanitation management, yet their representation in policy formulation and institutional decision-making remains limited. While the National Water Resources Policy acknowledges the importance of stakeholder participation, it does not systematically integrate gender-responsive planning, budgeting, or accountability mechanisms. As a result, the specific needs of women, particularly in relation to safety, dignity, and unpaid care burdens are not adequately reflected in infrastructure design or service delivery priorities.[24]

Nigeria's constitutional, policy, and institutional framework for water provides a formal foundation for governance, but remains constrained by non-justiciability, fragmented institutional arrangements, weak regulatory enforcement, and limited gender integration. While recent policy efforts signal a commitment to reform, achieving transformative outcomes will require a shift toward rights-based, coordinated, and gender-responsive governance systems, supported by stronger legal recognition, institutional capacity, and accountability mechanisms.[25]

From Redress to Gender Transformation

Recent discourse on reparations in Africa has evolved beyond a narrow focus on historical redress to encompass ongoing structural and systemic injustices embedded within contemporary governance systems. Within this expanded analytical frame, water inequality must be understood not simply as a developmental deficit, but as a continuing form of harm, reproduced through institutional arrangements, policy choices, and socio-economic hierarchies.[26] The legacies of colonial extraction, where water infrastructure was designed to serve administrative and commercial enclaves combined with post-colonial governance failures and persistently gender-blind development planning, have entrenched patterns of unequal access that disproportionately affect marginalised populations.[27] Water insecurity in this sense is not accidental; it is historically produced and politically sustained.

[24] Adeoti, O. (2021). Barriers to mainstreaming gender in water resources management in Nigeria. Water Science, 35(1), 127-134.

[25] Akpabio, E. M., Wilson, N. A. U., Umoh, E. C., Udofia, E. I. S., Udo, I. I., Elijah, E., ... & Ema, E. O. (2024). Women, water and access: inscribing gender power in and through a place. Journal of Water and Health, 22(3), 627-638.

[26] Mungekar, N., Hölscher, K., Janssen, A., & Loorbach, D. (2025). Repairing urban water governance through informality: comparing governance capacities for reparation in Indian cities. Water Policy, 27(4), 521-539.

[27] Adams, E. A., Juran, L., & Ajibade, I. (2018). 'Spaces of Exclusion'in community water governance: A Feminist Political Ecology of gender and participation in Malawi's Urban Water User Associations. Geoforum, 95, 133-142.

From a feminist perspective, reparative water governance requires centring the lived experiences of women and girls, who bear the disproportionate burden of water scarcity and inadequate sanitation. Feminist political economy highlights how water systems across Africa are sustained through the invisible and unpaid labour of women, whose daily responsibilities for water collection, household sanitation, and caregiving effectively subsidise weak public service delivery.[28] This dynamic produces what has been described as time poverty, limiting women's opportunities for education, income generation, and political participation. At the same time, inadequate sanitation infrastructure exposes women and girls to heightened risks of gender-based violence, indignity, and adverse health outcomes, including those associated with poor menstrual hygiene management and waterborne diseases. These realities underscore that water insecurity is not gender-neutral; it is structurally gendered and deeply embedded in social relations of power.[29]

Reparative water governance therefore requires a shift from distributive approaches focused solely on expanding access, toward corrective and transformative interventions that address the root causes of inequality. Drawing on theories of justice, reparative measures must operate across multiple dimensions. It involves redistribution and equitable investment in water and sanitation infrastructure, particularly in underserved rural and peri-urban areas.[30] It also involves recognition which acknowledges and addresses the specific needs and vulnerabilities of women and girls, including safety, dignity, and health,[31] and finally representation which demands the inclusion of women as active decision-makers and leaders within water governance institutions, rather than passive beneficiaries of policy interventions.[32]

From a rights-based governance perspective, reparative water justice is grounded in the recognition of access to water and sanitation as fundamental human rights, integral to the realisation of dignity, health, education, and equality. International human rights law, including the normative framework developed by the UN Committee on Economic, Social and Cultural Rights, establishes clear obligations on states to ensure that water is available, accessible, acceptable, safe, and affordable, without discrimination.[33] However, in many African contexts, these obligations remain weakly enforced, with water access treated as a policy aspiration rather than a legally enforceable entitlement. Reparative governance

[28] Joy, K. J., Kulkarni, S., Roth, D., & Zwarteveen, M. (2014). Re-politicising water governance: exploring water re-allocations in terms of justice. Local Environment, 19(9), 954-973.

[29] Mutanda, G. W., & Nhamo, G. (2024). Gendered perspective on water security, rights and conflicts in sub-Saharan Africa: a systematic review. Frontiers in Water, 6, 1399415.

[30] Zug, S., & Graefe, O. (2014). The gift of water. Social redistribution of water among neighbours in Khartoum. Water Alternatives, 7(1).

[31] Jackson, S. (2018). Water and Indigenous rights: Mechanisms and pathways of recognition, representation, and redistribution. Wiley Interdisciplinary Reviews: Water, 5(6), e1314.

[32] Asaba, R. B. (2015). Gender and representation in local water governance in rural Uganda. International Journal of Agricultural Resources, Governance and Ecology, 11(3-4), 247-261.

[33] Heller, L., De Albuquerque, C., Roaf, V., & Jiménez, A. (2020). Overview of 12 years of special rapporteurs on the human rights to water and sanitation: looking forward to future challenges. Water, 12(9), 2598.

therefore requires translating these normative commitments into binding legal frameworks, enforceable standards, and accessible accountability mechanisms that enable citizens, particularly women to claim their rights and seek redress for violations.[34]

Importantly, reparative water governance must also be understood as a forward- looking project of structural transformation, rather than a backward-looking exercise in compensation. It seeks not only to address past and present injustices, but to reconfigure governance systems in ways that prevent their recurrence.[35] This requires integrating gender justice into the core architecture of water governance, across law, policy, institutions, and practice, rather than treating it as a peripheral or cross-cutting concern. Such an approach aligns with continental commitments under Agenda 2063, as well as broader African Union gender equality frameworks, which emphasise inclusive development and the centrality of women's empowerment.

However, realising these commitments requires moving beyond rhetorical affirmation toward enforceable obligations, institutional accountability, and sustained political will. Without this shift, water and sanitation policies risk reproducing the very inequalities they seek to address. Ultimately, embedding gender justice within a reparative framework transforms how water governance is conceptualized from a question of service delivery to a matter of justice, rights, and human dignity. It demands that states and institutions confront the structural inequalities embedded within existing systems and take deliberate action to redistribute resources, recognise marginalised experiences, and reconfigure power relations. Only through such a transformative approach can water governance in Africa contribute meaningfully to equitable and sustainable development.[36]

Regulating Profit and Protecting Rights

The increasing role of private actors in water and sanitation provision across Africa reflects broader shifts toward market-oriented governance and hybrid service delivery models, particularly in contexts where public systems have struggled to meet demand. While private sector participation can introduce investment, innovation, and efficiency gains, it also raises significant concerns regarding equity, affordability, accountability, and the protection of human rights, especially in settings characterised by weak regulatory capacity.[37]

Water, unlike many other commodities, occupies a unique position as both an economic good and a fundamental human right, and this dual character creates inherent tensions between profit imperatives

[34] Anand, P. B. (2007). Right to water and access to water: an assessment. Journal of International Development: The Journal of the Development Studies Association, 19(4), 511-526.
[35] Mungekar, N., Hölscher, K., Jansasen A., & Loorbach, D. (2025). Repairing urban water governance through informality: comparing governance capacities for reparation in Indian cities. Water Policy, 27(4), 521-539.
[36] Jones, E. (2020). Gender and reparations: Seeking transformative justice. In Reparations for victims of genocide, war crimes and crimes against humanity (pp. 86-118). Brill Nijhoff.
[37] Davis, J. (2005). Private-sector participation in the water and sanitation sector. Annu. Rev. Environ. Resour., 30, 145-183.

and social obligations.

From a political economy perspective, the expansion of private actors in water provision is often driven by fiscal constraints, donor influence, and state capacity limitations. Governments facing budgetary pressures and infrastructural deficits increasingly rely on private providers whether through formal public-private partnerships (PPPs) or informal market arrangements to fill service gaps. However, without robust regulatory frameworks, such arrangements risk reproducing or even exacerbating existing inequalities, as access becomes mediated by market logic rather than rights-based entitlements.

In Nigeria, the dominance of private borehole operators and water vendors in urban areas illustrates a de facto privatisation of water access, particularly in cities where public utilities have failed to provide reliable supply. These actors operate largely outside formal regulatory oversight, resulting in significant variability in pricing, quality, and service standards. For low-income households, reliance on water vendors often entails paying disproportionately higher prices per litre compared to wealthier households with private boreholes or piped connections a phenomenon widely recognised as the "poverty penalty" in water access. Moreover, the absence of quality control mechanisms raises public health concerns, as water safety is not consistently monitored or enforced. In this context, control over water provision shifts from public institutions to market actors and informal networks, undermining the notion of water as a public good and a right.[38]

Private sector participation in water in Kenya has been more formalised through public-private partnerships and regulated Water Service Providers (WSPs) operating under the oversight of national and county institutions.[39] These arrangements have contributed to expanded coverage in some areas and improved operational efficiency. However, challenges remain, particularly in informal settlements where service provision is often fragmented and mediated through intermediaries. In such contexts, residents frequently rely on informal vendors or community-managed systems, where tariffs may exceed regulated rates and accountability mechanisms are weak. Despite the presence of regulatory bodies such as the Water Services Regulatory Board, enforcement capacity is uneven, and affordability remains a critical concern. The Kenyan experience thus highlights the limits of regulatory reform in addressing structural inequalities in access, particularly where socio-economic disparities and urban informality persist.[40]
In South Africa, debates around private sector involvement in water provision are closely linked to

[38] Braimah, I., Obeng Nti, K., & Amponsah, O. (2018, June). Poverty penalty in urban water market in Ghana. In Urban Forum (Vol. 29, No. 2, pp. 147-168). Dordrecht: Springer Netherlands.
[39] Obosi, J. O. (2017). Impact of public-private partnership on water service delivery in Kenya. Open Journal of Political Science, 7(1), 211-228.
[40] [40] Sambu, D. K., & Tarhule, A. (2013). Progress of water service providers in meeting millennium development goals in Kenya. African Geographical Review, 32(2), 105-124.

broader policy frameworks emphasising cost recovery, financial sustainability, and service efficiency.[41] Measures such as prepaid water meters and tariff structures have been introduced to improve revenue collection and reduce non- payment. However, these approaches have generated significant controversy, particularly in low-income communities, where they are perceived as undermining the constitutional right to water. Critics argue that such mechanisms effectively commodify access, limiting water consumption based on ability to pay and disproportionately affecting vulnerable populations.[42] The South African case illustrates the tension between neoliberal policy approaches and rights-based obligations, even within a context of strong legal recognition of water as a fundamental right.[43]

CONCLUSION

Across Africa, the central challenge in water and sanitation governance is not the absence of policy frameworks or private sector participation, but the failure to confront and transform the structural conditions that produce and sustain inequality. Existing governance models often shaped by technocratic priorities and market-oriented logics have been insufficient in addressing the historical, political, and socio-economic dynamics that determine access. Within this context, the growing role of corporate actors, if left inadequately regulated, risks entrenching disparities by transforming water from a public good into a stratified commodity, mediated by ability to pay rather than grounded in rights and equity.

A transformative water and sanitation governance approach, rooted in human rights and reparative justice, requires moving beyond incremental reform toward systemic restructuring. From a business and human rights perspective, corporate participation must be situated within the framework of the UN Guiding Principles on Business and Human Rights, which establish clear responsibilities for businesses to respect human rights through the conduct of human rights due diligence (HRDD). In the water sector, this entails not only identifying and mitigating adverse impacts on access, affordability, and quality, but also ensuring that business practices do not reproduce or exacerbate historical and gendered inequalities.

However, in many African contexts, the operationalisation of these standards remains limited, reflecting broader weaknesses in regulatory capacity, legal enforceability, and accountability mechanisms. A reparative and rights-based governance framework therefore demands the redefinition of the terms under which private actors engage in water provision. This includes establishing clear and enforceable legal standards governing pricing, quality, and service delivery; strengthening independent regulatory institutions; integrating HRDD into corporate operations and contractual arrangements; and

[41] McCallum, S., & Viviers, S. (2020). Private sector impact investment in water purification infrastructure in South Africa: a qualitative analysis of opportunities and barriers. Water SA, 46(1), 44-54.
[42] Bond, P. (2008). Decentralization, privatization and countervailing popular pressure: South African water commodification and decommodification. In Planning and Decentralization (pp. 50-68). Routledge.
[43] McCallum, S., & Viviers, S. (2020). Private sector impact investment in water purification infrastructure in South Africa: a qualitative analysis of opportunities and barriers. Water SA, 46(1), 44-54.

ensuring accessible, effective grievance and redress mechanisms for affected communities.

Crucially, transformative governance requires that regulation move beyond procedural compliance toward substantive accountability, ensuring that corporate activity contributes to the realisation of the human rights to water and sanitation. This entails aligning profit-making with public interest obligations and embedding equity considerations—particularly those relating to gender justice and the needs of marginalised communities—within governance systems.

Ultimately, a human rights and reparative justice approach repositions water and sanitation governance as a matter not of service delivery alone, but of justice, redistribution, and structural transformation. It calls for confronting the enduring legacies of exclusion, redistributing power and resources, and institutionalising accountability across state and non-state actors. In this sense, transformative water governance in Africa is not a singular reform agenda, but a multi-layered project of systemic change, aimed at ensuring that water and sanitation systems deliver not only efficiency, but equity, dignity, and substantive equality for all