

SHARP INEQUALITIES IN WATER SECURITY ACROSS THE CITY OF BOSTON; PEOPLE-OF-COLOR COMMUNITIES MOST IMPACTED

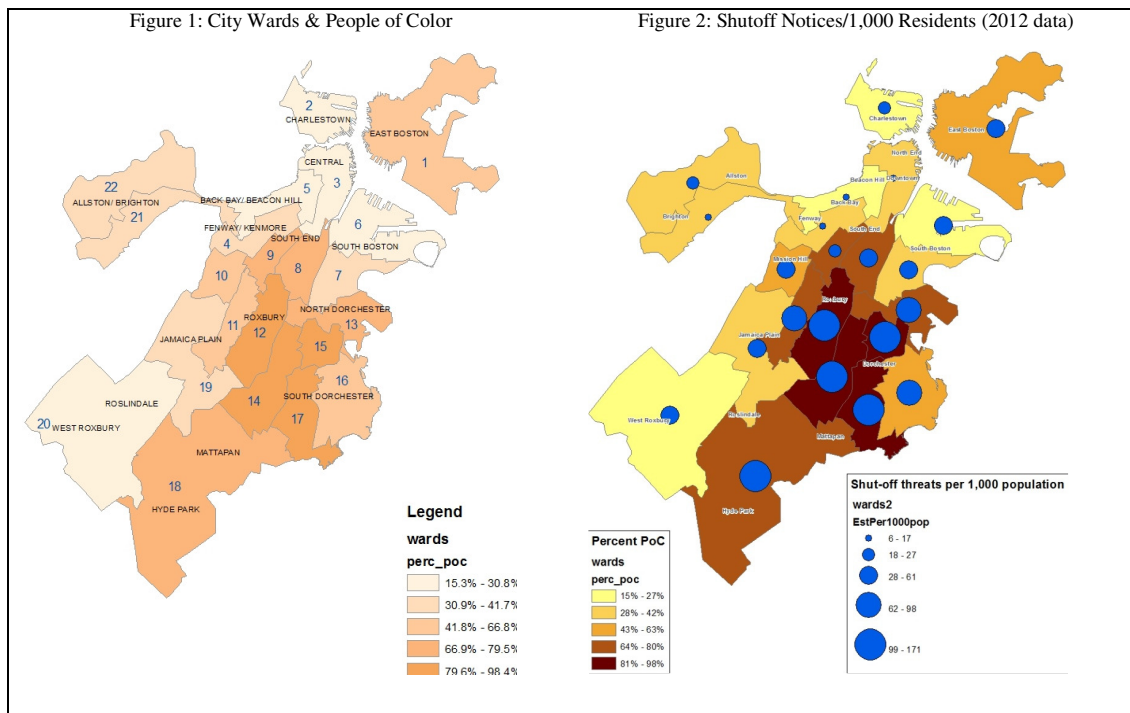
MASSACHUSETTS GLOBAL ACTION

MASSACHUSETTS GLOBAL ACTION (MGA) is a statewide grassroots network *and* membership organization, founded in August 2004 to help communities challenge the negative effects of corporate globalization in the Commonwealth of Massachusetts. For more information on Massachusetts Global Action, please visit <http://www.massglobalaction.org>.

POTENTIAL US VIOLATIONS UNDER THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION WITH RESPECT TO THE RIGHT TO ADEQUATE HOUSING, THE RIGHT TO WATER AND SANITATION, AND EQUALITY FOR COMMUNITIES OF COLOR IN THE CITY OF BOSTON

1. Water and Human Rights in Boston

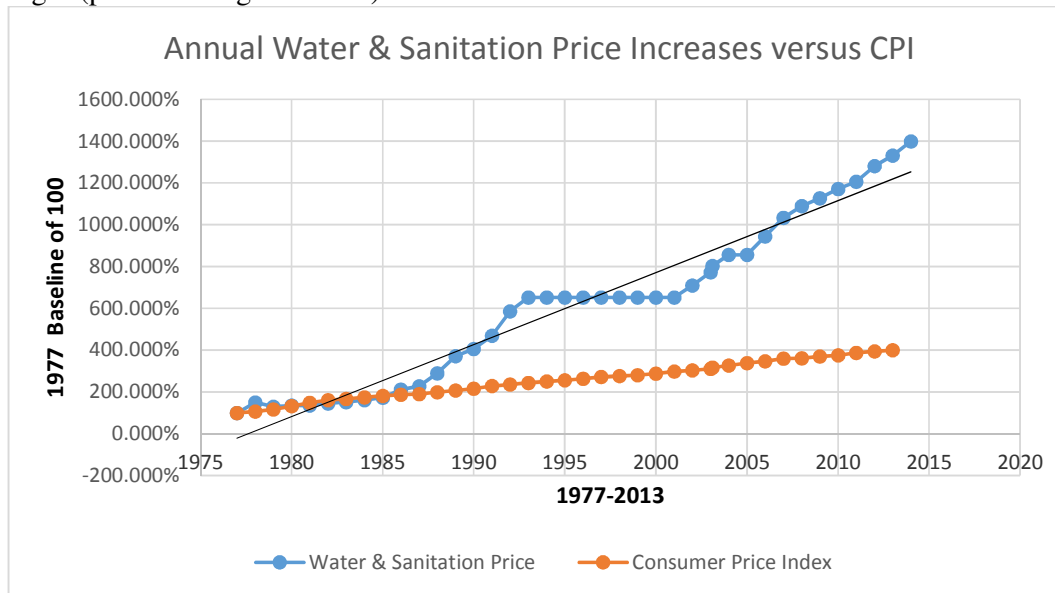
This report calls attention to severe and durable patterns of racial and economic inequality across the City of Boston, Massachusetts, as it impacts the provision of water and sanitation services to the city’s residents. Of particular concern are the facts that (1) residents in communities of color and low-income neighborhoods are more likely to receive water-shut off notices and to be in arrears with respect to their monthly water bills; (2) the city has no publicly-stated mechanism to reduce water bills for those who cannot afford their water bills; (3) neither the City nor its utility, the Boston Water and Sewer Commission (BWSC), have mechanisms in place to determine and report on patterns of racial inequality in the provision of water; and (4) no mechanisms exist to determine the impacts of planned water price increases on low-income residents and communities of color.



Based on two data sets obtained from the BWSC in 2007 and 2012, Massachusetts Global Action (MGA) found that for every one percent increase in people of color by city ward, there is a corresponding 3 – 4 percent increase in the issuing of water-shutoff notices.¹ In hearings organized by community organizations including MGA, residents complained about the high cost of water and sanitation bills, lack of adequate notice before water shut-offs, the difficulty in paying arrears, and the challenges facing residents on fixed incomes. Residents also expressed the concern that planned price increases will aggravate matters and increase

¹ Note: a shut-off notice is a *threat* to stop the water supply to a particular account (usually corresponding to one or more households); we did not receive data for *actual* water shut offs. Our findings are presented in the report, “The Color of Water: Report on the Human Right to Water in the City of Boston in Light of Race and Income” available for download from our website: http://bit.ly/c_H2O

the difficulties facing people of color. Community residents also agreed that (1) establishing a guaranteed life-line supply of water to each household via a community-driven policy process that examines the BWSC's rate structure and (2) regular reporting of threatened and actual water shutoff data with respect to income, race, ethnicity, gender, age, disability, and national origin, and (3) determining future price changes in light of (1) and (2), will provide relief. Anticipated price increases in the provision of water and sanitation services are stated in the BWSC's 2014 Rate Document; these amount to annual increases of 4.8% for each year through the furthest one projected, 2018.² It is worth noting these prices increases come of *decades* of nearly continuous price increases outstripping annual Consumer Price Index changes (please see figure below).



These price changes index difficult human stories told by Bostonians. At a community hearing organized by Mass. Global Action in 2011, two high school students from Jamaica Plain spoke movingly of their family's monthly bill approaching \$200/month despite careful attention water usage. These teenagers were particularly concerned about the stress the bills created for their father. Their story contrasted sharply with an account provided by a single male employee of the BWSC who explained to MGA and others that his frugal water usage yielded monthly bills of about \$50. However, the students' account was consistent with other testimony provided to MGA: a Dorchester retiree and single woman of color detailed her monthly challenge to pay the water bill on a fixed income while managing many other ever-increasing bills at a recent community conversation. She also explained her difficulty in paying down water-bill arrears while making choices about which among her prescribed medications to buy. Another long-time East Boston resident expressed her concern as a low-income tenant – having never been responsible for a water bill but having her water cut off. Her concern was to establish who was responsible for the bill and then to figure out her monthly share of the relative to other tenants in her building. All their experiences, speaking to diverse situations, tell of a simple need: keep the water flowing.

² Please see page 44, "[2014 Rate Document](#)," Boston Water and Sewer Commission. The document may be downloaded from the [BWSC's website](http://bwsc.org/ABOUT_BWSC/reports/PDFs/2014_rate_doc.PDF): << http://bwsc.org/ABOUT_BWSC/reports/PDFs/2014_rate_doc.PDF >>

2. Concluding Observations

In 2008, the Committee on the Elimination of Racial Discrimination stated in its Concluding Observations to the U.S. Government that “discrimination occurs where an apparently neutral provision, criterion or practice would put persons of a particular racial, ethnic or national origin at a disadvantage compared with other persons”.³ In response the US Government undertook to “to engage in greater publicity, outreach and training regarding U.S. obligations under the various U.N. human rights treaties to which it is party” and that the State Department would be “formally communicating to federal agencies, the fifty states, federally recognized tribes and other appropriate entities and reminding them of U.S. obligations...”⁴ These recommendations from 2008 are particularly apposite undertaking with respect to the City of Boston and its water utility.

In addition, the Committee on the Elimination of Racial Discrimination noted that it was “deeply concerned that racial, ethnic and national minorities, especially Latino and African American persons, are disproportionately concentrated in poor residential areas characterised by sub-standard housing conditions...” and urged the U.S. to “ensure the effective implementation of legislation adopted at the federal and state levels to combat discrimination in housing...”⁵ The U.S. did not provide a response to this recommendation.

Previously, in 2004, in the Committee on the Elimination of Racial Discrimination’s General Recommendation XXX, it recommended “that the States parties to the Convention, as appropriate to their specific circumstances, adopt the following measures:

...

29. Remove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of education, housing, employment and health;

...

32. Guarantee the equal enjoyment of the right to adequate housing for citizens and non-citizens, especially by avoiding segregation in housing and ensuring that housing agencies refrain from engaging in discriminatory practices”.⁶

³ Please see page 2, Committee on the Elimination of Racial Discrimination, “[Consideration of Reports Submitted by States Parties under Article 9 of the Convention, Concluding Observations of the Committee on the Elimination of Racial Discrimination, United States of America](#).” Seventy-second session, Geneva, 18 February - 7 March 2008, <<
http://www.ushrnetwork.org/sites/ushrnetwork.org/files/concluding_observations_of_the_cerd_committee_to_the_us_government_2008.pdf >>

⁴ Please see page 15, “[United States Response to Specific Recommendations Identified by the Committee on the Elimination of Racial Discrimination](#).” January 13, 2009. <<
http://www.ushrnetwork.org/sites/ushrnetwork.org/files/us_government_one_year_response_to_cerd_concluding_observations_2009.pdf >>

⁵ Please see page 4, Committee on the Elimination of Racial Discrimination, “[Consideration of Reports Submitted by States Parties under Article 9 of the Convention, Concluding Observations of the Committee on the Elimination of Racial Discrimination, United States of America](#).” Seventy-second session, Geneva, 18 February - 7 March 2008, <<
http://www.ushrnetwork.org/sites/ushrnetwork.org/files/concluding_observations_of_the_cerd_committee_to_the_us_government_2008.pdf >>

⁶ CERD General Recommendation XXX (Sixty-fifth session, 2004): Discrimination Against Non-Citizens, A/59/18 (2004) 93 at paras. 29 and 32.

3. U.S. Government Report

The U.S. Government's 2013 report to the Committee on the Elimination of Racial Discrimination did reference the Committee's concern that racial, ethnic and national minorities, especially Latino and African American persons, are disproportionately concentrated in poor residential areas characterized by sub-standard housing conditions, stating

It is of concern that, in some cases, minorities are concentrated in areas or communities that may have sub-standard living conditions and/or services, and one of the missions of civil rights laws and authorities in the United States is to ensure that such situations are not the result of discriminatory policies or practices (direct or disparate impact) related to housing, education or other areas receiving federal financial assistance.⁷

The report then discusses the Fair Housing Act, which does not touch on this issue regarding the City of Boston and water-shut offs.

4. Legal Framework

The concerns raised in this report address speak directly to both general and specific provisions and recommendations in the International Convention on the Elimination of All Forms of Racial Discrimination. In ratifying the convention, the US Government agreed "to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law," and, in terms of Article 5 (e)(3), to economic, social and cultural rights and particularly, the "right to housing," which requires the provision of adequate water and sanitation.

5. Other UN Body Recommendations

The right to water and non-discrimination human rights violations by the City of Boston described above have been previously reported to the United Nations General Assembly on August 2, 2011. Based on data provided by MGA, the Special Rapporteur on the human right to safe drinking water and sanitation noted that the "relationship between affordability of services and patterns of water shut-off policies is another concern."⁸

On 28 July 2010, the U.N. General Assembly explicitly recognized the human right to water and sanitation and acknowledged that clean drinking water and sanitation are essential to the realization of all human rights.⁹

In 2002, the Committee on Economic Social and Cultural Rights, in its General Comment 15 Stated that "The human right to water is indispensable for leading a life in human dignity.

⁷ Please see pages 24-5, "[Periodic Report of the United States of America to the United Nations Committee on the Elimination of All Forms of Racial Discrimination](http://www.ushrnetwork.org/2013-us-government-cerd-report-summary)," June 12, 2013, << <http://www.ushrnetwork.org/2013-us-government-cerd-report-summary> <<

⁸ Please see note 50, page 12, UN General Assembly, "[Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque](http://www2.ohchr.org/english/bodies/hrcouncil/docs/18session/A-HRC-18-33-Add4_en.pdf)," August 2, 2011 << http://www2.ohchr.org/english/bodies/hrcouncil/docs/18session/A-HRC-18-33-Add4_en.pdf >>

⁹ U.N. General Assembly, "[Resolution adopted by the General Assembly on 28 July 2010](http://www.un.org/waterforlifedecade/human_right_to_water.shtml)", The human right to water and sanitation, U.N. Doc. A/RES/64/292 << http://www.un.org/waterforlifedecade/human_right_to_water.shtml >>

It is a prerequisite for the realization of other human rights” and that

[t]he obligation of States parties to guarantee that the right to water is enjoyed without discrimination (art. 2, para. 2, of the Covenant), and equally between men and women (art. 3), pervades all of the Covenant obligations. The Covenant thus proscribes any discrimination on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to water.¹⁰

In addition, in 1991, the Committee on Economic Social and Cultural Rights in its General Comment 4 stated that

the concept of adequacy is particularly significant in relation to the right to housing since it serves to underline a number of factors which must be taken into account in determining whether particular forms of shelter can be considered to constitute "adequate housing" for the purposes of the Covenant. While adequacy is determined in part by social, economic, cultural, climatic, ecological and other factors, the Committee believes that it is nevertheless possible to identify certain aspects of the right that must be taken into account for this purpose in any particular context. They include the following: [...]

(b) Availability of services, materials, facilities and infrastructure [...] All beneficiaries of the right to adequate housing should have sustainable access to [...] safe drinking water...sanitation...¹¹

6. Questions

Based on MGA’s work with communities facing continuous increasing water and sanitation fees and the resulting water insecurity, we recommend that the Committee on the Elimination of All Forms of Racial Discrimination ask the U.S. Government the address the question:

6.1. What is the complete breakdown by city ward, income, race/ethnicity, head-of-household gender, age, disability status, of all threatened and actual water shut-offs in the City of Boston over the last 5 years?

6.2. How many tenants—disaggregated by city ward, income, race/ethnicity, head-of-household gender, age, disability status—have been either under threat of or actually had their water shut off over the last 5 years?

¹⁰ ICESCR General Comment 15 (Twenty-ninth session, 2002): The Right to Water (arts. 11 and 12 of the Covenant), E/2003/22 (2002) 120 at paras. 1-60.

¹¹ ICESCR General Comment 4 (Sixth session, 1991): Article 11 (1): The Right to Adequate Housing, E/1992/23 (1991) 114 at paras. 1, 3, 4 and 6-19.

7. Recommendations

Massachusetts Global Action calls upon the United States Government to:

- 7.1 Engage civil society and directly-impacted communities to establish guidelines for all water utilities to ensure that all residents enjoy the human right to water and sanitation.
- 7.2 Establish a public reporting mechanism that involves water utilities and civil society in monitoring the enjoyment of the human right to water with particular attention to difference and inequalities that correlate with race, income, ethnicity, national origin, gender, disability status, and age.