

**HUMAN RIGHT TO WATER: RACE AND AFFORDABILITY CHALLENGES IN A
MAJOR AMERICAN CITY, BOSTON, MASSACHUSETTS**

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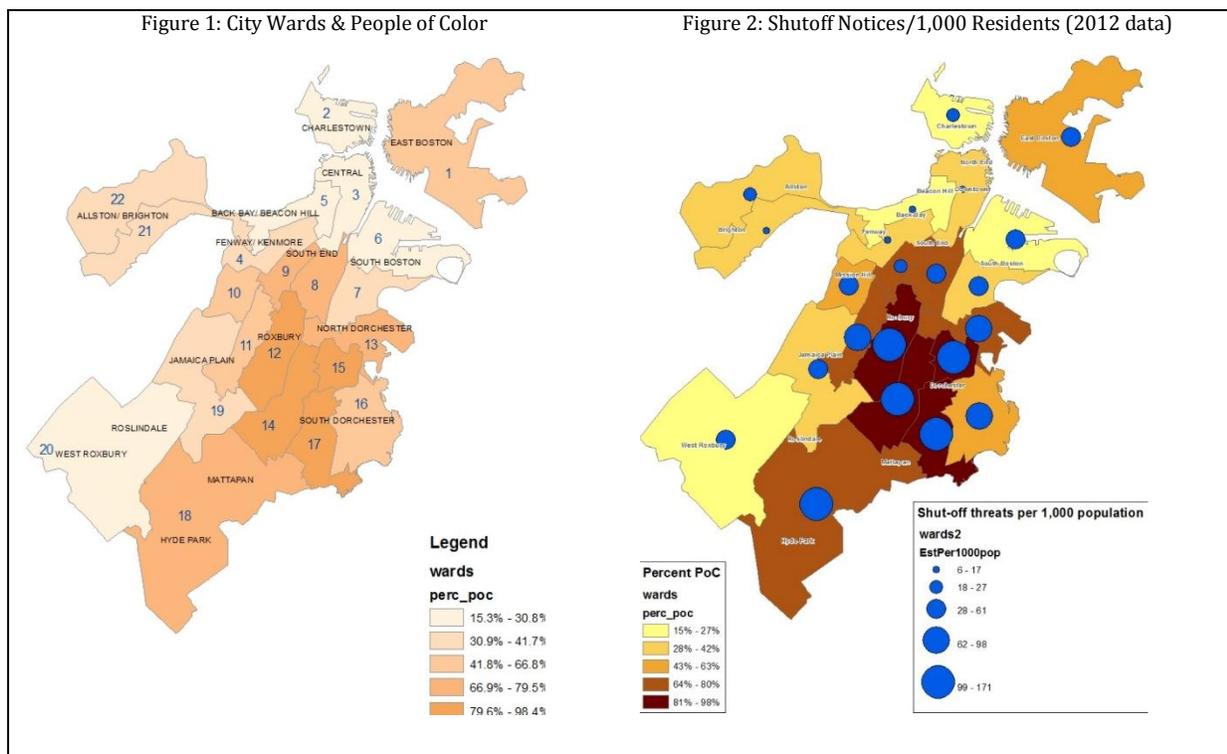
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Massachusetts Global Action is a community-based advocacy organization concerned about corporate globalization on the well-being of working people in Massachusetts and around the world. MGA is particularly concerned about the Human Right to Water and the protections it affords all residents of the United States. MGA was established in 2004.

I. SUMMARY

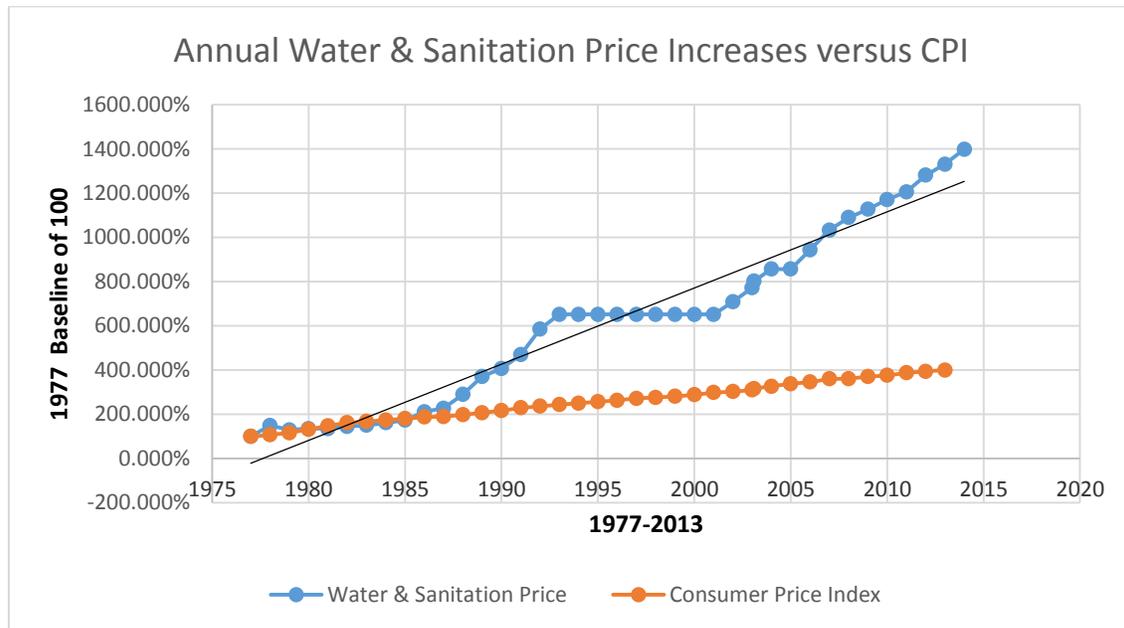
1. This report calls attention to severe and durable patterns of racial and economic inequality across the City of Boston, Massachusetts, as it impacts the provision of water and sanitation services to the city's residents. Of particular concern are the facts that (1) residents in communities of color 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. Our concerns emerged over the course of review BWSC data and by organizing community-based hearings and listening to resident testimonies in neighborhoods highly impacted by water shutoffs.



2. 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 the difficulties facing people of color. Community residents also agreed that (1) establishing a guaranteed life-line supply of water to each household

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

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).



3. 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 the Jamaica Plain neighborhood of Boston 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.

4. 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 >>

5. Massachusetts Global Action calls upon the United States Government to:

5.1 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.

5.2 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.

II. LEGAL FRAMEWORK

4. Although there are federal guidelines that address the quality of water and that protect bodies of freshwater. There are no federal regulations addressing access to and the affordability of water.

5. State regulation and constitutional provisions in Massachusetts recognize a “right to water” and protects water sources but does not address access to and the affordability of water.

6. Two bodies, established by state statutes, the Boston Water and Sewer Commission and the Massachusetts Water Resources Authority are directly involved in setting water and sewer prices but neither has provision to ensure that all residents, including those who cannot afford to pay their water bills

8. The Report of the Working Group on the Universal Periodic Review on the United States of America, 4 January 2011 did not directly address the human right to water and its status in the United States.

9. However, the United States Government recognized, “humbled by the recognition that more work remains, and remains committed to improvement and to continuing this dialogue going forward.” (paragraph 91).

10. 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.

11. 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.”³

³ 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 >>

12. 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.⁴

13. 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. 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.⁵

14. 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...⁶

⁴ 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 >>

⁵ 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.

⁶ 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.

III. U.S. COMPLIANCE WITH ITS INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

15. Neither the United States Government at the federal level nor its counterparts state and local level have adequately addressed the concern for the equal protection of all residents in terms of the human right to water.

16. No explicit public mechanism exists for residents of the City of Boston to ensure that water is affordable for all its residents. The resulting racial and income disparities in water shutoffs have not been the subject of public official concern.

17. Public concern about water shutoffs as well as water quality concerns is rising with water shutoffs in Detroit and water contamination issues in numerous communities including in California's Central Valley, in Toledo, Ohio, in Gloucester, Massachusetts, and in West Virginia.

18. The residents of the City of Boston have not had to contend these drastic threats given professional stewardship of its water resources, fortunate economic circumstances, and the relative absence of major environmental and climate disruptions. However, as our review of the data and community hearings suggest, significant numbers of people are subject to the threat of water shutoffs.

19. The United States Government can help local and state bodies better protect all residents in their enjoyment of the human right to water by establishing a system to monitor water shutoffs and to establish meaningful guidelines for affordability.

IV. CONCLUSION

20. This report has demonstrated that residents of a major city in the United States of America do not fully enjoy the human right to water and that there are inadequate mechanisms to ensure that water is affordable for all residents.

21. The review of the United States Government's international treaty obligations suggests that the United States Government can no longer defer to state and local governments to ensure that all residents enjoy the protections of human right to water.

22. Massachusetts Global Action is therefore calling on the United States Government to establish national guidelines for affordability and develop a mechanism to monitor water shutoffs.