



Presentation from
**2015 World Water
Week in Stockholm**

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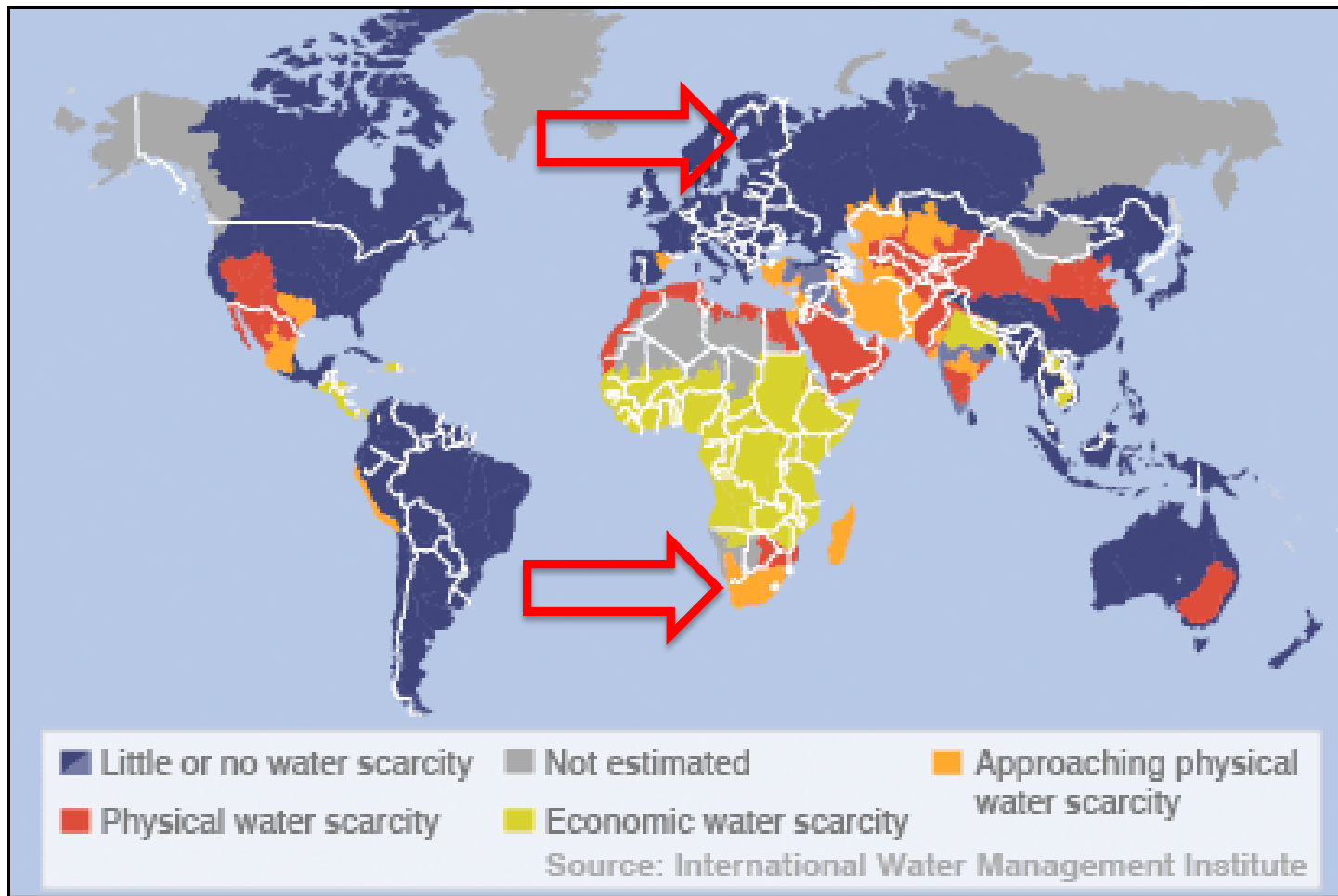
Obligations Arising from the Right to Water

A North-South Perspective

World Water Week 2015, Stockholm, Wednesday 26 August

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Background

- UN General Assembly (July 2010)
 - The right to safe drinking water and sanitation is a human right
- Finland
 - No explicit right to water in the Constitution
 - Everyone has access to water and sanitation
- South Africa
 - Right of access to water in the Constitution
 - Shortcomings concerning access to water and sanitation

Obligations

- Justiciable substantive right?
 - Finland: Constitutional right to receive indispensable subsistence and care
 - South Africa: No directly enforceable obligation to provide water or sanitation immediately
- Implementation obligation
 - Finland: Everyone must be guaranteed the right to basic subsistence
 - South Africa: State has to take measures to achieve the progressive realisation of the right to water

Obligations

- Impairment prohibition
 - Finland: Public authorities must guarantee the observance of basic rights and liberties and human rights
 - Discontinuation of water services, income support
 - South Africa: State bears duty to refrain from interfering with the enjoyment of the right of access to water
 - Discontinuation of water services, basic water supply

Obligations

- Interpretative obligation
 - Human and constitutional rights taken into account when interpreting national legislation
 - Exclusion of a legal provision in contradiction with the right to water?
- Non-state party obligations
 - Negative obligations possible

Concluding remarks

- Different States face different challenges in the implementation of the right to water
 - Access to water, available resources, legal system
 - Obligations can be realised differently
- Right to water
 - Obligates public authorities
 - To realise the right in the highest possible degree
 - Not to lower the level achieved
 - Very seldom
 - Grants actionable rights
 - Provides non-state parties obligations

Thank you!



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