

# An International Overview of the Right to Water and Sanitation

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## INTERNATIONAL AGREEMENTS

### **Protocol on Water and Health, Convention on the Protection and Use of Transboundary Watercourses and International Lakes (2007)**

The main aim of the Protocol is to protect human health and well being by better water management, including the protection of water ecosystems, and by preventing, controlling and reducing water-related diseases. The Protocol is the first international agreement of its kind adopted specifically to attain an adequate supply of safe drinking water and adequate sanitation for everyone, and effectively protect water used as a source of drinking water.

To meet these goals, its Parties are required to establish national and local targets for the quality of drinking water and the quality of discharges, as well as for the performance of water supply and waste-water treatment. They are also required to reduce outbreaks and the incidence of water-related diseases.

This Protocol introduces a social component into cooperation on water management. Water resources management should link social and economic development to the protection of natural ecosystems. Moreover, improving the water supply and sanitation is fundamental in breaking the vicious cycle of poverty.

See the Protocol at: [http://www.unece.org/env/water/text/text\\_protocol.htm](http://www.unece.org/env/water/text/text_protocol.htm)

### **General Comment No. 15 (2002)**

In 2002, the United Nations (UN) issued General Comment No. 15 on the Right to Water. The Comment draws on the International Covenant on Economic, Social and Cultural Rights as the legal basis for the right to water. It stipulates that “the human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.” The Comment further outlines principles including non-discrimination and equality and three obligations for states: “The right to water, like any human right, imposes three types of obligations on States parties: obligations to respect, obligations to protect and obligations to fulfill.”

See the Comment at:

<http://www.unhchr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94?Opendocument>

## **Millennium Development Goals (2000)**

In September 2000, world leaders adopted the United Nations Millennium Declaration whereby they reaffirmed and rededicated themselves to the UN Charter, sovereign equality of all states, peace and other goals. The Declaration outline fundamental values such as freedom, equality and respect for nature. The states also agreed:

To halve, by the year 2015, the proportion of the world's people whose income is less than one dollar a day and the proportion of people who suffer from hunger and, by the same date, to halve the proportion of people who are unable to reach or to afford safe drinking water.

Under Target 3 of Goal 7 of the Millennium Development Goals (MDGs), Environmental Sustainability, states pledge to “Halve, by 2015, the proportion of the population without sustainable access to safe drinking water and basic sanitation.”

In 2002, The UN Secretary General commissioned the UN Millennium Project as a “concrete action plan for the world to achieve the Millennium Development Goals.” There have been several international events to recommit to the MDGs including the 2005 World Summit and 2008 High-level Event on the MDGs, UN Millennium Project. Another UN Summit is being held September 20-22, 2010 in New York to “accelerate progress towards the MDGs.”

For more information about the MDGs: <http://www.un.org/millenniumgoals/bkgd.shtml>

## **Convention on the Elimination of All Forms of Discrimination Against Women (1981)**

Article 2 (h) stipulates a right to water:

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

See the Convention at: <http://www.un.org/womenwatch/daw/cedaw/>

## **Convention on the Rights of the Child (1990)**

Article 2 (c) that states have the responsibility to provide clean drinking-water:

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

See the Convention at: <http://www2.ohchr.org/english/law/crc.htm>

## **Geneva Convention relative to the Treatment of Prisoners of War (1950)**

Several articles in this Convention outline a right to water:

### Article 20

The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention.

### Article 26

Sufficient drinking water shall be supplied to prisoners of war.

### Article 46

The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water.

See the Convention at: <http://www.unhcr.org/refworld/docid/3ae6b36c8.html>

## **Geneva Convention relative to the Treatment of Civilian Persons in Time of War (1949)**

Two articles in this Convention stipulate that civilian persons have a right to water.

Art. 89. Sufficient drinking water shall be supplied to internees.

Art. 127. The Detaining Power shall supply internees during transfer with drinking water and food sufficient in quantity, quality and variety to maintain them in good health.

See the Convention at: <http://www.un-documents.net/gc-4.htm>

## REGIONAL AGREEMENTS

### **European Charter on Water Resources (2001)**

In 2001, the Council of Europe, Committee of Ministers adopted the European Charter on Water Resources which stipulates a right to water:

5. Everyone has the right to a sufficient quantity of water for his or her basic needs.

International human rights instruments recognise the fundamental right of all human beings to be free from hunger and to an adequate standard of living for themselves and their families. It is quite clear that these two requirements include the right to a minimum quantity of water of satisfactory quality from the point of view of health and hygiene.

Social measures should be put in place to prevent the supply of water to destitute persons from being cut off.

See the Charter at:

<https://wcd.coe.int/ViewDoc.jsp?id=231615&BackColorInternet=DBDCF2&BackColorI>

### **African Charter on the Rights and Welfare of the Child (1990)**

The Charter stipulates state responsibility in providing safe drinking water:

2. States Parties to the present Charter shall undertake to pursue the full implementation of this right and in particular shall take measures:

(c) to ensure the provision of adequate nutrition and safe drinking water;

See the Charter at: [http://www.unhcr.org/cgi-](http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b38c18&page=search)

[bin/texis/vtx/refworld/rwmain?docid=3ae6b38c18&page=search](http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ae6b38c18&page=search)

## **UN INDEPENDENT EXPERT ON THE ISSUE OF HUMAN RIGHTS OBLIGATIONS RELATED TO ACCESS TO SAFE DRINKING WATER AND SANITATION**

Human Rights Council resolution 7/22 expresses deep concern “that over one billion people lack access to safe drinking water and that 2.6 billion lack access to safe sanitation.” Having access to safe drinking and sanitation is central to living a life in dignity and upholding human rights. The mandate of the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation was established to examine these crucial issues from a human rights perspective and provide recommendations to the Human Rights Council, and other actors in this regard Ms. Catarina de Albuquerque was appointed as Independent Expert in September 2008, and began her work on the mandate in November 2008. As Independent Expert, she is called upon to undertake specific tasks:

- (a) Firstly, on developing a dialogue with Governments, the relevant United Nations bodies, the private sector, local authorities, national human rights institutions, civil society organizations and academic institutions, to identify, promote and exchange views on best practices related to access to safe drinking water and sanitation, and, in that regard, to prepare a compendium of best practices;
- (b) Secondly, on advancing the work by undertaking a study, in cooperation with and reflecting the views of Governments and relevant United Nations bodies, and in further cooperation with the private sector, local authorities, national human rights institutions, civil society organizations and academic institutions, on the further clarification of the content of human rights obligations, including non-discrimination obligations, in relation to access to safe drinking water and sanitation;
- (c) Thirdly, on making recommendations that could help the realization of the Millennium Development Goals, in particular of Goal 7.

The Independent Expert also undertakes country missions with the aim of examining the situation of water and sanitation at the national level, identifying good practices, and making recommendations to the Government on steps to improve access and ensure protection of human rights associated with water and sanitation.

The Independent Expert has organized public and written consultations with the private sector, local authorities, national human rights institutions, civil society organizations and academic institutions. In 2010, the Independent Expert will prepare a report on

private sector participation in the provision of water and sanitation services. Based on the answers to a questionnaire and stakeholder consultations, the Independent Expert will prepare a report on good practices, to be presented to the Human Rights Council in 2011.

More information on the Independent Expert can be found at:

<http://www2.ohchr.org/english/issues/water/iexpert/index.htm>

**Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development**  
**Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, July 2009**

**Summary**

The independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, submits this report to the Human Rights Council in accordance with Council resolution 7/22. The report focuses on the human rights obligations related to sanitation. After reviewing the inextricable links between sanitation and a range of human rights, the independent expert concludes that an analysis of sanitation in a human rights context must go beyond linking it to other human rights, because this would fail to fully capture all of the dimensions of sanitation. She suggests that, although there is an ongoing discussion on whether sanitation should be recognized as a distinct right, recent developments at the international, regional and national levels demonstrate a trend towards recognition; specifically, considering the right to sanitation as an explicit component of the right to an adequate standard of living.

While opinions may differ on whether to recognize sanitation as a distinct right, the independent expert asserts that there are clear human rights obligations related to sanitation because it is inextricably linked to, and indispensable for, the realization of many other human rights. She outlines a definition of sanitation in human rights terms, and explains the human rights obligations related to sanitation, as well as the content of those obligations. The report ends with conclusions and recommendations.

The Report can be found at:

<http://www2.ohchr.org/english/issues/water/iexpert/annual.htm>

**Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development**  
**Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, February 2009**

**Summary**

This report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation is submitted to the Human Rights Council in accordance with Council resolution 7/22. As the independent expert only took up her mandate on 1 November 2008, this report is preliminary in nature.

The report reviews the history leading up to the establishment of the mandate of the independent expert, and notes meetings already held with various stakeholders to discuss matters related to the mandate. In particular, the report explains that the independent expert intends to take a thematic approach to her mandate, focusing on different themes each year, with the first year concentrated on sanitation. She provides a brief overview of the problem of lack of access to sanitation, and its connection to other human rights violations. She announces her hope to hold two consultations in 2009, one focused on elaborating the normative content of human rights obligations related to access to sanitation, and one focused on developing criteria by which to identify good practices with regard to the human rights obligations related to water and sanitation. She indicates her desire to present a deeper analysis of the issues identified in this report in her next report to the Human Rights Council.

The Report can be found at:

<http://www2.ohchr.org/english/issues/water/iexpert/annual.htm>

## UNITED NATIONS REPORTS

### **Report of the United Nations High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments, Louise Arbour, 2007**

#### **Summary**

The present report is submitted pursuant to Human Rights Council decision 2/104 of 27 November 2006 on human rights and access to water in which the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to conduct a detailed study on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments, taking into account the views of States and other stakeholders.

In conducting the study, OHCHR has sought written submissions from various stakeholders, including States, intergovernmental organizations, national human rights institutions, non-governmental organizations, experts, and representatives of the private sector. OHCHR also organized a one-day open consultation to discuss human rights and access to safe drinking water and sanitation and attended relevant expert and other meetings. The inputs received during the consultation process have informed the preparation of the study.

The present report reviews international human rights obligations related to the provision of safe drinking water and sanitation. It discusses their scope and content, nature and monitoring, and points to areas needing further elaboration. The report ends with conclusions and recommendations to further strengthen and implement human rights obligations related to access to safe drinking water and sanitation.

The Report can be found at: <http://www2.ohchr.org/english/issues/water/>

## **Realization of the Right to Drinking Water and Sanitation Report of the special rapporteur, El Hadji Guissé, 2005**

### **Summary**

At its fifty-sixth session, the Sub-Commission, in its decision 2004/107, dated 9 August 2004, decided to request Special Rapporteur Mr. El Hadji Guissé to prepare a set of draft guidelines for the realization of the right to drinking water supply and sanitation and to submit them to it at its fifty-seventh session.

The draft guidelines contained in the present report are intended to assist government policymakers, international agencies and members of civil society working in the water and sanitation sector to implement the right to drinking water and sanitation. These draft guidelines highlight the main and most urgent components of the right to water and sanitation. They do not attempt to provide an exhaustive legal definition of the right to water and sanitation.

The Report can be found at: <http://www.osn.cz/soubory/g0514909.pdf>

## **Beyond Scarcity: Power, poverty and the Global Water Crisis, Erik Swyngedouw UN Human Development Report 2006**

The Report promotes water as a human right and, as stated in the Report Summary, “documents the systematic violation of the right to water, identifies the underlying causes of the crisis and sets out an agenda for change.”

Throughout history water has confronted humanity with some of its greatest challenges. Water is a source of life and a natural resource that sustains our environments and supports livelihoods – but it is also a source of risk and vulnerability. In the early 21st Century, prospects for human development are threatened by a deepening global water crisis. Debunking the myth that the crisis is the result of scarcity, this report argues poverty, power and inequality are at the heart of the problem.

In a world of unprecedented wealth, almost 2 million children die each year for want of a glass of clean water and adequate sanitation. Millions of women and young girls are forced to spend hours collecting and carrying water, restricting their opportunities and their choices. And water-borne infectious diseases are holding back poverty reduction and economic growth in some of the world’s poorest countries.

Beyond the household, competition for water as a productive resource is intensifying. Symptoms of that competition include the collapse of water-based ecological systems,

declining river flows and large-scale groundwater depletion. Conflicts over water are intensifying within countries, with the rural poor losing out. The potential for tensions between countries is also growing, though there are large potential human development gains from increased cooperation.

The Human Development Report continues to frame debates on some of the most pressing challenges facing humanity. Human Development Report 2006:

- Investigates the underlying causes and consequences of a crisis that leaves 1.2 billion people without access to safe water and 2.6 billion without access to sanitation
- Argues for a concerted drive to achieve water and sanitation for all through national strategies and a global plan of action
- Examines the social and economic forces that are driving water shortages and marginalizing the poor in agriculture
- Looks at the scope for international cooperation to resolve cross-border tensions in water management
- Includes special contributions from Gordon Brown and Ngozi Okonjo-Iweala, President Lula, President Carter, and the former UN Secretary General, Kofi Annan.

Excerpt from: <http://hdr.undp.org/en/reports/global/hdr2006/>

### **UN World Water Development Report**

In 2003, the UN began releasing the World Water Development Report which “is a comprehensive review that gives an overall picture of the state of the world's freshwater resources and aims to provide decision-makers with the tools to implement sustainable use of our water.” The first report, Water for People, Water for Life (WWDR1), was presented at the 3<sup>rd</sup> World Water forum in Japan (2003) and the second report, Water: A Shared Responsibility (WWDR2), was presented at the 4<sup>th</sup> World Water Forum in Mexico (2006). The most recent report, Water in a Changing World, with a compilation of cases studies in “Facing the Challenges” was presented at the 5<sup>th</sup> World Water Forum in Turkey (2009).

The reports can be found at: <http://www.unesco.org/water/wwap/wwdr/>

## UNITED NATIONS AGENCIES

### **The Secretariat – UNSGAB, UNOP, & the Global Compact**

In addition to the General Assembly and ECOSOC, the Secretariat is the third principle organ to influence water policies and programmes at the United Nations. At its head is the Secretary-General, who with a staff of approximately 40,000 international civil servants, supports the functioning of the UN system. In principle, the Secretariat exists to conduct the day-to-day work of the organization and to administer the directives, policies and programmes as determined by its Member States. However in practice, the Executive Office of the Secretary-General (EOSG) has leeway to oversee initiatives that advance chosen issues. In the area of water, three Secretariat entities play a significant role: the UN Secretary-General’s Advisory Board on Water and Sanitation (UNSGAB), housed within the Department of Economic and Social Affairs (DESA), the UN Office for Partnerships (UNOP), and the Global Compact, the latter two operating under the direct auspices of the EOSG. These initiatives seem to invite the most intensive forms of cooperation with the private sector, which raises questions around the transparency and legitimacy of the UN’s interaction with corporations. The expansion of private sector engagement, in initiatives outside the processes and reviews of the General Assembly and the Council, risks undermining the democratic nature of the UN’s work on water issue.

#### The UN Secretary-General’s Advisory Board on Water and Sanitation (UNSGAB)

The UNSGAB was established in 2004 when Secretary-General Kofi Annan highlighted the observance of World Water Day with an announcement of a Board to galvanize global action on water and sanitation issues. The rationale was deemed to be the benefit that would result from assembling “a wide range of dignitaries, technical experts, and individuals with proven experience in providing inspiration, moving the machinery of government, and working with the media, the private sector and civil society”.<sup>1</sup>

In terms of its composition, the Board has several prominent representatives from the private sector. More than a quarter of the 23-person Board has private sector affiliations. Of these seven individuals, four were members of the panel that authored the controversial “Financing Water for All” of the World Panel on Financing Water Infrastructure. In direct relation to the private sector, the UNSGAB includes Mr. Michel

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<sup>1</sup> The press release announcing the creation of UNSGAB is available at:  
[http://www.unsgab.org/docs/PRUNSG\\_Mar04\\_en.pdf](http://www.unsgab.org/docs/PRUNSG_Mar04_en.pdf)

Camdessus, Honorary Governor of the Banque de France and former Managing Director of the International Monetary Fund, Mr. Angel Gurría, a former member of the Camdessus Panel as well as the former President and CEO of Bancomext, Mexico's export-import bank and Mr. Gerard Payen, a former Senior Executive-Vice-President of Suez, a corporation that is active in private water delivery in developing and developed countries.

### The UN Office for Partnerships (UNOP)

The UN Office for Partnerships (UNOP) describes itself as a gateway for cooperation between the private sector, foundations, and the UN, contending “using the skills of business, the capital of philanthropy, and the rigor of the marketplace, partnerships can develop and deliver system-changing solutions”. The office is based at UN Headquarters in New York as part of the Executive Office of the SG and is directed by Mr. Amir Dossal, the UN’s Chief Liaison for Partnerships.

However, there is no evidence in UNOP’s public materials that its partnership services have been evaluated to determine if the lending of the UN’s legitimacy, values, and historic relationships measures up to significant advancement of its development agenda. This is in spite of the Secretary-General’s “Guidelines on Cooperation between the United Nations and the Business Sector” (first issued in 2000 and recently revised in 2009) requesting that UN cooperation with the business sector be effective, clear and transparent.

### The Global Compact & its CEO Water Mandate

The Global Compact was first announced by UN Secretary-General Kofi Annan in an address to the World Economic Forum in January 1999, and then officially launched at UN Headquarters in July 2000. The Compact is a voluntary initiative whereby corporations commit to align their operations and strategies with ten principles in the areas of human rights, labour, environment and anti-corruption. Over the last decade, the Compact has grown significantly to become the “largest global corporate citizenship initiative” with representation from 135 countries through some 5,000 signatories from the business sector and 1,500 signatories from civil society (The UN Global Compact Office, 2009, p. 8). In 2008, the Compact welcomed 1,473 business participants, a 30% increase in new corporate signatories compared to the previous year (ibid).

Despite the claim that “never before have the objectives of the international community and the business world been so aligned” (UN Global Compact Office, 2008, p.2), the

Compact has been subject to a well-documented range of criticism since its inception from academics, civil society and even those within the UN system itself (Knight & Smith, 2008; Utting & Zammit, 2006; Bruno & Karliner, 2000). A primary concern is the absence of monitoring and enforcement provisions, which fails to enable the Global Compact to hold corporations accountable. This creates an opportunity for companies to misuse the Compact as a public relations instrument and to resist any binding international regulation on corporate accountability.

Endorsers of the CEO Mandate recognize a need for the private sector to respect the right to water. In order to do so, an internal review of current private sector participation practices is being conducted. Based on this information, the Mandate will be releasing a document providing operation guidance in late 2010 or early 2011.

### **World Health Organization**

In 2003, the World Health Organization related The Right To Water. As stated on the WHO's website, the publication:

- Outlines the scope and content of the legal definition of the human right to water and its relationship to other civil, cultural, economic, political, and social rights;
- Discusses the right to water as a human right, and examines its implications on the roles and responsibilities of various stakeholders;
- Examines the various communities affecting and being affected by the right to water;
- Considers the contribution the right to water can and should make towards making drinking-water a reality for all;
- Explores a human rights-based approach to water.

The full document can be found at:

[http://www.who.int/water\\_sanitation\\_health/rightwater/en/](http://www.who.int/water_sanitation_health/rightwater/en/)

## Food and Agricultural Organization

The Food and Agriculture Organization explicitly recognizes the right to water in its report *Agriculture, Food and Water*. As stated in the Introduction, “the facts about past, present and future water demand in food production and food security are discussed” in the report. Annex One clearly states, “The right to adequate food and the right to water are human rights.” The Report draws upon Article 11 (the right to an adequate standard of living) of the International Covenant on Economic, Social and Cultural Rights and General Comment No. 15 as the legal basis for the right to water.

The report can be found at: <ftp://ftp.fao.org/agl/aglw/docs/agricfoodwater.pdf>

## STATEMENTS

### European Union (March 22, 2010)

On World Water Day, the European Union reaffirms that all States bear human rights obligations regarding access to safe drinking water, which must be available, physically accessible, affordable and acceptable.

The EU also recognises that the human rights obligations regarding access to safe drinking water and to sanitation are closely related with individual human rights - as the rights to housing, food and health.

But even more than being related to individual rights, access to safe drinking water is a component element of the right to an adequate standard of living and is closely related to human dignity.

The EU acknowledges the fact that several United Nations bodies, civil society organisations, experts, practitioners, governments and others call for a broader recognition of the human right to water. The recognition of human rights obligations related to access to safe drinking water has the potential of improving the situation of the approximately 884 million people who lack access to improved drinking water sources and over 2.5 billion who do not have access to basic sanitation.

The EU commemorates the 13th World Water Day and celebrates this year the 1st European Water Day. For the EU, 22nd March is a unique occasion to remind us all that solutions are possible, and also that human rights have a decisive contribution to putting these solutions in place. The principles of participation, non-discrimination and accountability are, in fact, central to empowering the most marginalized sections of society and demonstrating that these crucial matters are no longer an issue of charity.

This year's World Water Day's theme is "Clean Water for a healthy world". Water for personal and domestic uses must be safe, therefore free from substances constituting a threat to a person's health. Access to adequate and safe sanitation constitutes one of the principal mechanisms for protecting the quality of drinking water.

The EU applauds the efforts taken by some countries - including a number of EU member states - to improve this tragic situation, by taking specific measures, including legislative ones, at the national and international levels to improve access to safe drinking water and to sanitation.

Excerpts from: [http://www.eu-un.europa.eu/articles/fr/article\\_9601\\_fr.htm](http://www.eu-un.europa.eu/articles/fr/article_9601_fr.htm)

### **United Kingdom**

In response to the UN Development Report, Beyond Scarcity: Power, Poverty and the Global Water Crisis, the UK government announced its recognition of the right to water in November 2006.

See Press Release at:

<http://webarchive.nationalarchives.gov.uk/+http://www.dfid.gov.uk/news/files/pressreleases/human-dev-report06.asp>

## **NATIONAL CONSTITUTIONS**

The number of countries entrenching the right to water in their constitutions is steadily increasing. The entrenchment of the right to water in constitutions is a critical step to ensuring access to water. The following is a list of countries that have included the right to water in their national constitutions: Uruguay, South Africa, Belgium, Netherlands, Bolivia, Ecuador, the Spanish regional autonomies of Aragon and Valencia, Congo, and Kenya. Many countries have enacted or amended laws that promote the right to water including France, Northern Ireland, Venezuela, Peru, Chile, Argentina, Brazil, Nicaragua, and Paraguay.