



***CRITICAL REVIEW***  
*of the*  
***“GREEN CROSS” PROPOSAL***

for a **GLOBAL FRAMEWORK CONVENTION** on the **RIGHT TO WATER**

*prepared by* SACK GOLDBLATT MITCHELL, Barristers and Solicitors,  
for the BLUE PLANET PROJECT/COUNCIL OF CANADIANS  
on behalf of the FRIENDS OF THE RIGHT TO WATER

## Assessing the “Green Cross” Proposal for a Global Framework Convention on the Right to Water

Prepared for the Blue Planet Project by Steven Shrybman, of Sack, Goldblatt, Mitchell  
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### *Summary*

Green Cross International and two other organizations have proposed a Global Framework Convention on the Right to Water<sup>1</sup> (the “Proposal”). It claims to present a “legally binding, enforceable and universally accepted Global Framework Convention on the Right to Water.”

However, while the Proposal does include progressive elements, in many respects it is so seriously flawed that it would undermine, not strengthen, current international protection for the human right to water.

Among its most serious deficiencies, the proposed Framework Convention:

- defines the “*right to water*” to include both human and commercial rights to water, thus placing both on the same footing. By equating the two, the Proposal fundamentally undermines that very rationale for a new international instrument concerning water as a *human* right, which is to guarantee that priority be given to human not commercial, and largely corporate rights;
- introduces the useful concept of “Water for life,” to mean water of sufficient quality and quantity to satisfy the basic human needs, but fails to establish binding obligations for State parties to either provide, or protect this essential human right to water;
- provides thematic support for treating water as a commodity, and tacit support for the privatization and for-profit delivery of water services. Indeed as currently drafted, the Framework Convention would actually be a vehicle for imposing free-market economic policies on all State parties, notwithstanding the repeated failure of such policies to meet basic human needs concerning access to water;
- fails to establish international legal remedies where the right to water is denied. Thus even in cases of persistent non-compliance by a State party, which local remedies have failed to resolve, the Proposal provides no recourse to individuals or groups denied access to *water for life*.
- fails to establish a positive obligation for wealthy nations to provide economic and technical assistance to poorer nations to facilitate the realization of the right to water;
- fails to require State parties to establish legal and political constraints on their resident

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<sup>1</sup> The Proposal is the product of a process initiated by Green Cross International, International Secretariat of Water, and the Maghreb-Machreq Alliance for Water. This critique concerns a draft proposal dated Feb. 5, 2005, as accessed on April 3, 2005 at [http://www.greencrossinternational.net/watercampaign/doc/Convention\\_final2005.html](http://www.greencrossinternational.net/watercampaign/doc/Convention_final2005.html)

corporations to ensure that these do not violate the right to water in other countries;

- fails to adequately address the central role played by international financial institutions, such as the World Bank, which often impose conditionality on lending and credit agreements that fundamentally undercut the pricing and service objectives necessary for ensuring access to water as a human right; and
- fails to stipulate that its requirements will prevail when conflicts arise with other international treaties, particularly those concerning trade, services and investment. Yet these trade disciplines are often incompatible with, or explicitly prohibit, government measures needed to establish a meaningful human right to water.

The challenge of formulating a new international instrument concerning the human right to water raises several important policy and legal issues about which opinions are certain to differ. However, at a minimum, any new instrument concerning water as a human right must improve upon, not derogate from, current international legal protection for this right. Unfortunately the Proposal falls far short of this threshold and for this reason is likely, if implemented, to put the goal of assuring universal access to water for all humanity even further out of reach than it is today.

Because the proposed Framework Convention is cleverly draft, it creates the impression that it will represent a meaningful advance of current international human rights to water. Unpacking the confusing terminology and definitions of the proposed Framework Convention reveals a much different picture – because far from improving on the status quo, the Green Cross would fundamentally undermine core obligations already acknowledged under international law.