

# Right to Water: Moving towards a global consensus?

From Mexico to Istanbul



## What the right to water means and does not mean...

The right to water is the right, for each human being, to have access at an affordable price to sufficient amount of safe drinking water as well as to adequate sanitation in order to live in dignity.



- Implementing the right to water in countries where nearly all of the population has access to safe water has a different meaning than in countries where a large portion of the population does not yet have this access. In the first case, the right to water should become an enforceable right. In the second case, it can be used as a powerful tool to mobilize all stakeholders and to put equitable and affordable access to water services higher on the political agenda.
- The right to water does not mean that water must be free, but only affordable for all.
- The right to water does not mean that public authorities must manage the services directly. It means only that public authorities must exercise effective control over the water services after first choosing an appropriate management method (public, private or semi-private) for those services.
- The right to water does not mean that safe water from one country must be supplied to neighbouring countries lacking the resource.

“Declaring water a human right clearly does not mean that the water crisis will be resolved in short order. Nor does a rights framework provide automatic answers to difficult policy questions about pricing, investment and service delivery. However, human rights represent a powerful moral claim. They can also act as a source of empowerment and mobilization, creating expectations and enabling poor people to expand their entitlements through legal and political channels - and through claims on the resources of national governments and the international community.”

(UNDP development Report 2006)



## The right to water is now acknowledged in several official declarations

“Recognizing access to water as a fundamental right could serve as an important tool to encourage governments to improve their efforts to meet basic needs and accelerate progress towards achieving the MDGs”

*Parliamentary Assembly’s Recommendation 1731 (2006),  
Council of Europe*

“Access to water with quality, quantity and equity, constitutes a fundamental human right.”

*Complementary Declaration to the Ministerial Declaration  
from 4 countries of Latin America (Cuba, Venezuela,  
Bolivia, Uruguay)*

“All human beings have the right to water in the quantity and the quality required to meet their essential needs, as well as to sanitation, a key factor in human health and the preservation of ecosystems”

*Local Government Declaration on water, UCLG*

The 4th World Water Forum succeeded in bringing the right to water to the forefront. There was broad consensus about the existence of a human right to water. Mayors, who are more likely to be primarily responsible for providing access to water and sanitation, stand firmly for the right to water. Statements that were made also at the Forum show strong support for this concept from Parliamentarians, local authorities, private enterprises, NGOs, the Women’s Caucus, churches and more generally, civil society. Even if the right to water was not mentioned in the final Ministerial Declaration because of remaining divergence, the issue was debated for the first time during the ministerial Conference. It, thus, represents a big step forward since the 3rd World Water Forum.

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## MORE AND MORE CONCRETE STEPS...

### March 2006: Initiative launched by Parliamentarians

Following the Forum, the Mexican Chamber of Deputies campaigned for the provision of 40 liters of free water per day to all citizens. They asked the Government first to provide the budget for supplying free water to the 33,000 rural and peri-urban communities that do not currently have access to drinking water in Mexico, totalling nearly 10 million people. According to Legislator Fernando Ulises Adame de Leon, this could be achieved in 2 to 3 years. The total cost for covering everyone's needs in Mexico has been estimated at \$700 million USD per year.

### May 2006: Ministers from 116 countries officially acknowledge the right to water

During their Ministerial meeting in Malaysia (27-30 May 2006), the Coordinating Bureau of the Non-Aligned Movement (116 developing countries) adopted the following Declaration: "The Ministers recalled what was agreed by the UN Committee on Economic, Social and Cultural Rights in November 2002, recognised the importance of water as a vital and finite natural resource, which has an economic, social and environmental function, and acknowledged the right to water for all."

### September 2006: French Senators adopt an amendment establishing the right to water

Within the framework of the examination of the French Water Bill, Senators unanimously adopted an amendment proposed by Nelly Olin, Minister of Ecology and Sustainable Development, establishing the «right to water» as defined during the 4th World Water Forum. This Bill registers, henceforth, the right to water in the environmental code, thus providing a legislative framework including various measures for the implementation of the right to water, both legislatively and at the local level. When the new water law is promulgated, the right to water will be part of French law. It applies both to privately and publicly managed water utilities. With rising water prices and declining water subsidies, affordability is becoming an important issue.

### November 2006: The Human Rights Council looks into the right to water

In November 2006, the new Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights 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. This study will be submitted prior to the sixth session of the Council, which will occur in September 2007. This decision constitutes a very positive step forward in the international recognition of the right to drinking water as a right protected by the ICESCR.

1. International Covenant on Economic, Social and Cultural Rights.



## MORE AND MORE CONCRETE STEPS...



### November 2006: The British Government officially recognizes the human right to water

In response to the launch of the UN's latest Human Development Report, Beyond Scarcity: Power, Poverty and the Global Water Crisis, the British Government has announced that it recognises the human right to water. The Development Secretary Hilary Benn has also called for a Global Action Plan on water and sanitation. The announcement demonstrates one Government taking the essential leadership demanded by the UN Human Development Report which calls for global action to solve the water crisis. The UK had always fought official recognition of the right to water but now has changed its position. The UK's example is worth considering: they employ a social tariff for water and prohibit meters with prepayment and water disconnections. They have also set a limit for water expenditures (no more than 3% of all household expenditures). Few countries are so advanced in practice.



### December 2006: The right to water officially belongs to the French legislation

Following to the important mobilisation of civil society and stakeholders in support of the right to water, the Water Bill was enacted on December 20th, 2006. The right to water is enshrined in Art.1: *«Everybody has the right, for their alimentation and hygiene, to have access to drinking water, on the condition that it is economically affordable to everyone».*



## KEYS FOR THE FUTURE

- There should be sustained political will and commitment for the implementation of the right to water at all levels of governance.
- The right to water should be recognized in national legislation and policy.
- All governments should go beyond constitutional principles to enshrine the human right to water in enabling legislation.
- Financial means must be increased and sustained.
- Solidarity schemes should be set up domestically and internationally to ensure access to water for poor/rural areas and marginalised populations.
- Clear benchmarks should be set for progressing towards the target, with national and local governments and water providers being held accountable for progress.





## FACTS & FIGURES ON THE RIGHT TO WATER

- 1.1 billion of people lack basic access to water
- 2.6 billion lack access to adequate sanitation
- About 5,000 children under the age of five die every day due to preventable diseases such as diarrhoea, which is directly linked with the lack of clean water and sanitation.
- Every individual holds the human right to a minimum allocation of about 20 litres of water per day, regardless of geographic location or social status.



International norms set out by agencies such as the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF) suggest a minimum requirement of 20 litres a day from a source within 1 kilometre of the household. This is sufficient for drinking and basic personal hygiene. Below this level, people are constrained in their ability to maintain their physical well-being and the dignity that comes with being clean. Factoring in bathing and laundry needs would raise the personal threshold to about 50 litres a day.

- Explicit reference to the right to water has been made in **two core international human rights** treaties, which are legally binding upon all states that have signed them:
  - The Convention on the Elimination of Discrimination Against Women (1979)
  - The Convention on the Rights of the Child (1989);and also in **3 regional instruments in force**:
  - The African Charter on the Rights and Welfare of the Child (1990)
  - The Protocol on Water and Health to the 1992 Convention on the Use of Transboundary Watercourses and International Lakes (1999)
  - Charte des Eaux du Fleuve Sénégal (2002)
- In Europe, the right to water is formally recognised in several countries including, Belgium, Finland, France, Russia, Spain, Sweden, Ukraine and United Kingdom (UK). Social tariffs for water exist in Austria, Bulgaria, Greece, Hungary, Luxembourg, Malta, Portugal, The Netherlands and in United Kingdom.
- Since issuance of the General Comment N°15 in 2002, the number of States recognizing the right to water in their laws has doubled.
- All over the world, 15 countries (Belgium, Colombia, Democratic Republic of Congo, Ecuador, Ethiopia, Gambia, Kenya, Panama, Philippines, South Africa, Spain, Uganda, Uruguay, Venezuela and Zambia) and 2 American states (Massachusetts and Pennsylvania) have enacted an explicit right to water in their Constitution. Many other countries have used other rights enshrined in their national legislation, such as the right to a healthy environment, to enforce the right to water.