

**FUNDAMENTAL PRINCIPLES
FOR A
GLOBAL FRAMEWORK CONVENTION
ON
THE RIGHT TO WATER**

Summer 2004

There is a universal and inalienable Right to Water and its component Right to Water for Life.

Currently, one third of the world's population is suffering from a lack of adequate drinking water and/or sanitation. International organisations, governments, local authorities, financial institutions, private corporations and indeed all members of society are responsible for respecting, protecting and fulfilling this Right to Water.

Citizens around the world are calling for a legally binding, enforceable and universally accepted Global Framework Convention on the Right to Water and its component Right to Water for Life.

Governments have the collective responsibility of adopting this Framework Convention which will clarify the responsibilities of state parties and ensure action is taken to give the Right to Water the status of national and international law and better priority in terms of policy and management decisions.

Originating as a citizen initiative, the current proposition aims to clarify and outline the Right to Water and the factors on which its effectiveness and global influence depend. The initiative must participate in making the goals and commitments of the Johannesburg World Summit on Sustainable Development (2002) and the Millennium Declaration more imposing.

The adoption of a Framework Convention relating to the Right to Water concerns all states and peoples and should not be perceived solely as an operation for North/South cooperation.

THE CONTRACTING STATES,

Considering that:

- **water** is life, it is required for different uses and it fulfils multiple functions for both humankind and aquatic ecosystems,
- **water** is a common good of humankind,
- **water** is a global public good,
- **water** has social, cultural and economic values and is key to sustainable development,
- **water** cannot be treated as a commodity like any other nor as a mere object of commerce,

Confirming that the right of access to water is enshrined in the Universal Declaration of Human Rights (1948), which guarantees all people the right to a standard of living adequate for their good health and well-being, and the International Covenant on Economic, Social and Cultural Rights (1966), which has been ratified by 148 states and recognises “the right of everyone to the enjoyment of the highest standards of physical and mental health”,

Recalling that the fundamental right of access to water has been given increasingly specific recognition, as reflected in General Comment No. 15 on the right to water of the United Nations Committee on Economic, Social and Cultural Rights (2002),

Recalling also that the fundamental right of access to water has been recognised in:

- The Mar del Plata Action Plan for Water (1977)
- The Convention on the Elimination of all forms of Discrimination against Women (1979)
- The Convention on the Rights of the Child (1989)
- The Dublin Declaration on Water for Sustainable Development Implementation (1992)
- Various international instruments and declarations
- The national constitutions of a growing number of states

Recognising, however, that the implementation of the fundamental right to water requires further attention and clarification,

Adhering to the principles and rules contained in the United Nations Convention on the Law of Non-Navigational Uses of International Watercourses (1997).

Noting all the initiatives in favour of the recognition and implementation of the fundamental right to water,

Reaffirming our intention to achieve the Millennium Development Goals and Johannesburg Plan of Implementation Commitments, which envisage halving, by 2015, the proportion of people who do not have sustainable access to drinking water or basic sanitation, as a first step towards the ultimate goal of universal access,

Aware that the achievement of all other Millennium Development Goals, in particular commitments to eradicate extreme poverty and hunger, reduce child mortality and promote gender equality and the empowerment of women, are all dependent on people having access to water,

Conscious of the global water crisis and the scale of the investments that still need to be reached in order to achieve the Millennium Development Goals and Johannesburg Commitments,

Convinced of the need for all States to seek to incorporate the fundamental right to water in their national constitutions and laws and in international agreements, declarations and other instruments, to monitor its enforcement, and to guarantee it respect

Recognising that the right to life, the right to human dignity, the right to health, the right to food, to food security, the right to adequate housing, the right to development, the right to education, the right to a healthy environment and the right to peace are all dependent upon the recognition of the fundamental right to water,

Reaffirming that the respect, protection and fulfilment of everyone's human rights is the first responsibility of states,

Considering that the governance of water at the local, national and international levels needs to be translated into practice in accordance with the principles described below,

Recognising that governments, with the support of the United Nations system, have the primary responsibility to fulfil the Right to Water for Life,

HAVE AGREED AS FOLLOWS:

Article 1- Definitions

1. The term “right to water” means the fundamental right of access to "Water for Life": water of a quality, quantity and accessibility sufficient to satisfy the basic human needs for drinking, hygiene, cleaning, cooking, subsistence agriculture for local food consumption, and sanitation.
2. “Water for Life” should be free of micro-organisms, chemicals and radiological hazards which are, or which could constitute, a danger to human health and the environment.
3. The term “Water for Life” also designates the flow that must be guaranteed to ensure the health and proper functioning of rivers, streams and all aquatic ecosystems.
4. “Water for Life” includes “sanitation” which refers to the collection, transport, treatment and disposal or re-use of human excrement or used household water by means of collective systems and installations serving single household or a single undertaking and by using the best and most appropriate technologies available as well as and the natural purification capacities of ecosystems.
5. The term "productive water" means water used in activities that have an economic value on the market. When considering water from the perspective of human rights, the “productive water” used in commercial activities is to be clearly distinguished from the Water for Life needed by people and ecosystems for their survival.

Article 2 – Principle of National Sovereignty over Water

1. Fulfilling the right to Water for Life is the first priority to be addressed by States when exercising their sovereign right to exploit their own water resources in accordance with national policies for the environment, economy and sustainable development and in keeping with international undertakings.
2. Activities carried out within the confines of national jurisdiction or under the control of a State shall not cause damage to water resources or threaten the right to Water for Life of people or populations in other States or in zones not under any national jurisdiction.
3. The Right to Water is subject to the equitable and reasonable use of waters shared between different States. They endorse the responsibility to organise the sharing of water with a view to optimal and sustainable use and distribution, with good faith, maintaining neighbourly relations and for the benefit of all riparian communities and the environment.

Article 3- The Human Right to Water

1. The Right to Water is a fundamental, universal and inalienable right for individuals and communities, and a criterion of social justice.
2. In recognising the right to Water for Life, the need to prioritise the delivery of water to isolated communities and individuals and to prohibit the disconnection of persons from their domestic supply of water, is acknowledged by states.
3. The Right to Water is a prerequisite for the realisation of other human rights:
 - Water is indispensable for life, for physical and mental health and for a healthy environment.
 - The Right to Water is fundamental to an adequate standard of living, to development, to dignity, and social peace.

- The Right to Water is a prerequisite for the fundamental right to freedom from thirst and hunger, access to adequate food, and food security.
4. Water in its natural state is a public good. It is up to the community to determine its usage, protection and development. The community ensures adequate supplies are available and that appropriate sanitation limits waste and impairment of quality in a spirit of equity, responsibility, efficiency and economy.
 5. Respect for the Right to Water shall be taken into account and used as indicator in multilateral and bilateral trade, finance and economic negotiations.
 6. Men and women are equal with regard to the Right to Water taking into account the land ownership.
 7. Special attention shall be paid to the needs of children, and particularly girls, who are the first to suffer from lack of access to water. This situation needs an adequate monitoring mechanism.

Article 4 –The Right to Sufficient Quantity of Water

1. The Right to Water consists of a sufficient supply of water, which is of adequate quality, physically accessible and affordably priced.
2. The Right to Water implies access to a supply system which allows those entitled to access each particular system to do so without discrimination and in complete security.
3. The Right to Water guarantees ongoing access to the necessary supply of water, on conditions of equality, without arbitrary obstruction or (arbitrary) interruption. In cases of supply shortage, decisions that limit the quantity of water distributed are made with transparency and without arbitrary or unjustifiable discrimination towards precarious settlements. Users are informed prior to disruptions in water distribution and, if necessary, an alternative supply is provided.
4. Good effective governance of water should ensure, through adapted, appropriate and connected mechanisms of regulation and guarantees, that installations and services are accessible to all the respective beneficiaries of the Right to Water.

Article 5 –The Right to Clean Water

1. The Right to Water is founded on the right of each individual to have access to water that is clean and uncontaminated and of an acceptable quality for personal and domestic use.
2. States shall ensure universal access to clean drinking water and sanitation, on an equitable and non-discriminatory basis, in urban as well as rural settlements.
3. The Right to Water implies that "Water for Life" is accessible to all at an affordable price.
4. Constitutions, national laws and regulations at State level shall ensure that the quality of water allocated for human activities of production is protected and shall deploy the means necessary to enforce the "polluter pays" principle and the precautionary principle.

Article 6- Principles of sustainability and precaution

1. The Right to Water depends on surface and (under) ground waters, which are renewable resources with only a limited capacity for recovery from the damaging impacts of human activity, whether/both in terms of quantity or quality. Special attention should be directed at arid zones and regions experiencing hydrological stress.

2. As an indispensable element of sustainable development, water represents a social, cultural and ecological asset essential to social cohesion and cultural diversity and is not essentially a commodity.
3. The uses of water shall be defined and priorities established, striking a balance between access to water, the imperatives of health, the protection of the environment - particularly aquatic ecosystems - and the economical development of countries and people. The uses of Water for Life have priority over the productive uses of water.
4. States shall establish a sustainable management of the water cycle to meet human needs as well as to protect the environment.
5. States shall adopt and apply policies within the framework of an integrated water resources management, thereby taking into account hydrological basins.
6. The Right to Water shall be exercised taking into account the availability of water resources under conditions of long-term sustainability, so that present and future generations may both benefit from it.
7. Preventative action and the precautionary principle and are essential for sustainable respect of the Right to Water.
8. For each usage of water for the purposes of agriculture, energy and industry, States shall encourage the implementation of policies of minimisation of impacts, particularly by identifying and applying the best environmental practices and the best technologies available and by encouraging their dissemination, particularly through appropriate fiscal measures.
9. Public and independent impact assessments shall be conducted whenever the activities under consideration are liable to cause harm to water resource cycles, communities or biodiversity, or affect sustainable access to water.

Article 7 – Principle of Equity and Differentiation

1. The right of access to water shall be organised within the framework of a system of equality, non-discrimination, solidarity, subsidiarity and co-operation.
2. The exercise of the Right to Water shall ensure that the balance in quantity and quality of water is respected between the needs of natural ecosystems, the needs of human beings, agriculture and livestock, and the needs of industry and energy production.
3. Equitable access to drinking water that is adequate both in terms of quantity and quality shall be ensured to communities and, in particular, to persons who are socially disadvantaged and/or politically marginalized or excluded.
4. States shall pay special attention to the needs of groups who have traditionally had difficulty in exercising this right for reasons of poverty or inaccessibility, particularly women, children, the elderly, minority groups, indigenous people, refugees, asylum-seekers, internally displaced persons, migrant workers, and prisoners.

Article 8 – Principle of Responsibility

1. In return for the water-related rights guaranteed to them under private law and public law, moral persons, legal entities and public and private sector entities shall contribute to the protection of the aquatic environment and ecosystems and to the conservation of water resources.
2. Decentralisation, proximity and respect for the subsidiary principle are crucial elements for the Right to Water. Local authorities and other local entities shall lay down priorities

appropriate within the local context and enjoy a transfer of powers and competences to ensure access to water and sanitation.

3. States, directly or through action by donors shall provide specific support for water sector projects integrating access to water for life.
4. States shall establish an appropriate system of control and regulation.
5. At a national level, the legal and institutional framework shall provide clear accountability, avenues of recourse, a system of liability and compensation, and appropriate sanctions in the event of violations.

Article 9 – Principles of Participation and Transparency

1. The best way of guaranteeing the Right to Water is to ensure the participation, at the appropriate level, of all citizens concerned, including vulnerable groups.
2. Such participation shall be organised around recognised and equal partners.
3. States shall facilitate and encourage public involvement, and in particular participation in decision-making processes and the evaluation of water-related projects.
4. Public authorities shall take the necessary action to guarantee people information on water services and water tariffs. Specific information shall be provided on harmful substances, dangerous activities and the technologies used in communities.
5. In the governance and management of water, local populations, indigenous communities and local authorities have a vital role to play, which shall take into consideration their knowledge of the environment, (their know-how), their culture, their traditional practices and their technical knowledge and experiences.
6. Forums for coordination, mediation and arbitration shall be established to strengthen water governance and social acceptance within a participatory framework.
7. Fighting against corruption is a *sine qua non* in ensuring respect for the Right to Water. To this end, tenders, award of contracts, subventions connected with water-related activities and services shall be guided by the principle of transparency and managed by responsible and trained people.
8. Effective access by individuals and representatives of organisations to judicial and administrative actions, particularly with regard to recourse and compensation, shall be ensured whenever there are infringements on the Right to Water.
9. National legislation should give non-governmental organisations operating water services the capacity to start legal actions on behalf of victims of transgressions of the Right to Water.

Article 10 – Financing the Water Sector

1. Water should not be exploited for excessive profits and speculative purposes.
2. The price of water services, including domestic water supplies and sanitation are determined in order to guarantee the sustainability of both the services and natural resources, to protect public health and the environment and to strengthen social cohesion.
3. There should be recognition in the water services sector of different ways of recovering the costs of service provision, for example through collective labour by people in rural villages.
4. Given the economic dimension of water, the water sector within States and at the international level can be financed by both public and private funding. States shall establish a framework that regulates and controls the participation of the private sector and communities

in the financing of the water sector. Mechanisms should be put in place to distribute the cost of providing water services in a way that ensures universal provision.

5. A certain minimum of the profits made through water-related activities shall be reinvested in support of access to water for the poor and those who have no access to water for life.
6. The national and international budgetary resources allocated to investment expenditure in the water sector in each State shall grant priority to access to water and sanitation for the poor and those who have no access to water for life.
7. The ownership of water infrastructures shall be guaranteed to national or local authorities.
8. The provision of water-related services, whether publicly or privately managed, shall be accompanied by national guarantees designed to ensure that access to water is provided at an affordable price and that subsidies are granted to protect the rights of disadvantaged communities. The granting of subsidies shall be targeted and transparent.
9. The financing of productive water projects and infrastructures shall follow market rules, without impinging on national regulations and international standards that guarantee the Right to Water.

Article 11 – Right to Water in the event of Armed Conflicts

1. The Right to Water of communities subject to oppression, domination and occupation shall be guaranteed in accordance with the principles and rules of international law for armed conflicts.
2. The Right to Water shall not be infringed in the event of international or non-international conflict.
3. Water shall not be used as a means of waging war or as a target in armed conflicts. Any breach of this rule should be declared crime against humanity.

PROVISIONS TO BE FURTHER DEVELOPED

Article 12 – Meetings of States

Article 13 – Decisions and Recommendations




Article 14 – Settlement of Disputes

Article 15 – Amendment of the Convention

Article 16 – Adoption of Protocols

Article 17 – Final Provisions

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