

FUNDAMENTAL PRINCIPLES FOR A GLOBAL CONVENTION ON THE RIGHT TO WATER

2004

There is a universal and inalienable Right to Water for Life. Governments, international organisations and financial institutions, private enterprises and all members of society have a responsibility to respect, protect and fulfil the Right to Water for Life. With one third of the population of the world suffering from lack of adequate drinking water and/or sanitation, it is clear that the realisation of the universal right to Water for Life is far from complete at the grass roots level. With the definition and recognition of the human right to water still being debated and questioned by some governments at the highest international levels, it is clear that more needs to be done to bring the endless debate on whether and in what sense there is a right to water to a clear conclusion. Citizens around the world are calling for a Global Convention on the Right to Water which is legally binding, enforceable and universally accepted, to fully acknowledge the Right to Water for Life and clarify the responsibilities of state parties to respect, protect and fulfil this essential right.

With these Fundamental Principles for a Global Convention on the Right to Water, citizens of the world call on their governments to take action to give the Right to Water for Life the status in national and international law, and priority in policy and management decisions, which it so clearly warrants.

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 or as a mere object of commerce,

Confirming that the right of access to water and sanitation is enshrined in the Universal Declaration of Human Rights (1948), which guarantees all people a right to a standard of living adequate for their health and well-being, and the International Covenant on Economic, Social

and Cultural Rights (1966), which has been ratified by 148 states and recognizes “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 and sanitation 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 and sanitation has been recognised in:

- The Convention on the Elimination of all forms of Discrimination against Women (1979),
- The Convention on the Rights of the Child (1989), The Mar del Plata Action Plan for Water (1977)
- 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 of access to water and sanitation 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 of access to water and sanitation,

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 safe 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 clean water and sanitation,

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 of access to water and sanitation in their national constitutions and laws and in international agreements, declarations and other instruments, and to monitor their enforcement,

Recognising that the right to life, the right to human dignity, the right to health, the right to food, 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 of access to water and sanitation,

Reaffirming that the respect, protection and fulfilment of the human rights of all is the first responsibility of states,

Considering that the governance of water at both the 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 individual needs. As a minimum, the quantity must be sufficient to satisfy basic human needs for drinking, hygiene, cleaning, cooking, subsistence agriculture and animal husbandry for local food consumption, and sanitation. The term "Water for Life" also designates the flow that must be guaranteed to ensure the health and functioning of rivers, streams and all aquatic ecosystems. The term "Water for Life" includes sanitation.
2. "Water for Life" should be free from micro-organisms, chemicals and radiological hazards which are or could constitute a danger to human health and the environment.
3. The term "sanitation" means the collection, transport, treatment and disposal or re-use of human excrement or used household water by means of collective systems or by installations serving a single household or a single undertaking using the best and most appropriate technologies available, and the natural purification capacity of ecosystems.
4. The term "productive water" means water used in activities that have an economic value in 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 – Water and National Sovereignty

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 human 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 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 with a view to optimal and sustainable use and distribution, and for the benefit of all riparian communities and the environment.

Article 3- The Human Right to Water

1. Access to clean 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 delivery of water to unserved communities and individuals, and to prohibit the disconnection of persons from their domestic supply of water, is acknowledged by states.

3. The right to clean 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 clean water is fundamental to an adequate standard of living, to development and to dignity.
 - The right to water is a prerequisite for the fundamental right to freedom from hunger and access to adequate food.
4. Water in its natural state is a public good. No one can appropriate it. It is up to the community to determine how it should be used, to ensure adequate supplies and appropriate sanitation and to limit waste and impairment of quality in a spirit of equity, responsibility and efficiency.
5. Respect for the right to water and sanitation shall be taken into account in multilateral and bilateral trade and finance negotiations.
6. Men and women are equal with regard to the right to water and sanitation. Special attention shall be paid to the needs of children and particularly girls, who are the first to suffer.

Article 4 – Water Security: The Right to Sufficient 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 guarantees ongoing access to the necessary supply of water, on conditions of equality, without arbitrary obstruction or arbitrary interruption. In case of shortage, decisions that limit the quantity of water distributed and available are made with transparency and without arbitrary or unjustifiable discrimination. Users are informed prior to disruptions in water distribution and, if necessary, an alternative supply is provided. This protection from arbitrary interruption or disconnection from basic water supplies applies equally to those without secure tenure to land or housing.
3. The right to water implies access to a system of supply that allows those entitled to access each particular system to do so without discrimination and in complete security.
4. Good governance of water should ensure through appropriate mechanisms that installations and services are accessible to all the respective beneficiaries of the right to water.

Article 5 – Water Safety: 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 safe, clean drinking water and sanitation, on an equitable and non-discriminatory basis.
3. The right to water implies that "Water for Life" is accessible to all at an affordable price.
4. National laws and regulations shall ensure that the quality of water allocated for human productive activities 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. Surface and ground waters are renewable resources with only a limited capacity for recovery from the damaging impacts of human activity, whether in terms of quantity or quality. States shall establish a sustainable management of the water cycle to meet human needs as well as to protect the environment.
2. As an indispensable element of sustainable development, water represents a social, cultural and ecological asset and not essentially a commodity.
3. The right to water shall be exercised taking into account the availability of resources under conditions of long-term sustainability, so that present and future generations may both benefit from it.
4. The precautionary principle and preventative action are essential for sustainability.
5. The uses of water shall be defined and priorities established, while striking a balance between access to water, the imperatives of health, the protection of the environment - particularly aquatic ecosystems - and human development. Generally, the uses of Water for Life have priority over the productive uses of water.
6. For each of the uses of water for the purposes of agriculture, energy and industry, States shall encourage the implementation of policies of minimisation, particularly by identifying and applying best environmental practice and the best technologies available and by encouraging their dissemination, particularly through appropriate fiscal measures.
7. States shall adopt and apply policies within the framework of integrated water resources management, thereby taking into account hydrological basins.
8. Public and independent impact assessments shall be conducted whenever activities under consideration are liable to cause harm to communities, biodiversity or affect sustainable access to water.

Article 7 – Principle of Equity and Differentiation

1. The right of access to water and sanitation 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 in terms both of quantity and quality shall be ensured to communities and, in particular, to persons who are socially disadvantaged and/or politically marginalised 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, prisoners and detainees.

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 and respect for the subsidiary principle are crucial elements to the right to water. Local authorities and other local entities shall enjoy a transfer of powers to ensure access to water and to lay down priorities appropriate for the local context.
3. States, directly or through action by donors, shall provide specific support for water sector projects integrating access to water and sanitation.
4. States shall establish an appropriate system of control and regulation.
5. The legal and institutional framework shall establish clear accountability, provide for 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 of all citizens concerned, including vulnerable groups, at the appropriate level.
2. Such participation shall be organised around recognised and equal partners.
3. States shall facilitate and encourage public involvement, and in particular the participation in the processes of decision-making and the evaluation of water-related projects. Public authorities shall take necessary action to guarantee people information on water services and water tariffs. Specific information shall be provided on harmful substances, and dangerous activities and technologies used in communities.
4. In water governance and management, 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 experience
5. Forums for coordination, mediation and arbitration shall be established to strengthen water governance and management within a participatory framework.
6. Fighting against corruption is a sine qua non in ensuring respect for the right to water. To this end, the award of contracts connected with water-related activities and services shall be guided by the principle of transparency.
7. 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 is an infringement on the right to water.

Article 10 – Financing of the Water Sector

1. 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. The prices of water services are determined in a transparent way and should recover net costs. The provision of Water for Life should not be exploited for excessive profit.
2. There should be recognition in the water service sector of different ways of recovering the costs of service provision, for example through collective labour by people in rural villages.
3. Given the economic dimension of water, the water sector within States and at the international level can be financed both from public funds and from private funds. States shall establish a framework that regulates and controls the participation of the private sector in the financing of the water sector. Mechanisms should be put in place that

distribute the cost of providing water services in a way that ensures universal provision. A certain minimum of the profits realised through water-related activities shall be reinvested in support of access to water for the poor.

4. The provision of water-related services, whether publicly or privately managed, shall be accompanied by guarantees at the national level, designed to ensure that access to drinking 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. The ownership of water infrastructures shall be guaranteed to national or local authorities.
5. 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.
6. The financing of productive water projects and infrastructures shall follow market rules, without impinging on national rules 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
2. The right to water shall not be infringed in the event of international or non-international conflict. Water shall not be used as a means of waging war or as a target in armed conflicts.

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