Water Cooperation and Human Rights

2013, declared as International Year of Water Cooperation, constitutes a unique opportunity to reassess that the overarching goal of water cooperation must be the realization of the rights of both current and populations and future generations as reflecting both “our respect for the rights of our neighbors, and our concern for the legacy of our children” (UNSRHRWS, 2012). WaterLex messages address the integration of human rights in transboundary water management (Peace); in integrated water resources management (Inclusiveness); and developmental cooperation (Solidarity).

1. Cooperation in the protection of human rights

The post-2015 agenda will give future priorities for States, and therefore cooperation. It is of utmost importance to articulate current States’ international legal obligations in human rights, water or environment, to fully appraise the existing international normative framework for water cooperation. Using a human rights-based approach requires to fulfill basic human needs, while appraising water in a comprehensive manner, across the three heavily interlinked subsectors of WASH, water resources and wastewater.

Recalling Art.1, 55 and 56 of the UN Charter stating the obligation to cooperate in the protection of human rights;

Recalling General Comment n.3 of the Committee on Economic, Social and cultural Rights affirming that the State has the obligation to fulfill human rights “to the maximum of its available resources”, including those available from the international community through international cooperation;

Recalling General Comment n.15 of the Committee on Economic, Social and cultural Rights, affirming States’ obligations to respect the right to water in other countries;

WaterLex recommends that:

- States respect the enjoyment of human rights in other countries and refrain from actions that interfere, directly or indirectly, with the enjoyment of the right to water in other countries. Any activities undertaken within the States jurisdiction should not deprive another country of the ability to realize human rights, including the right to water for persons in its jurisdiction (See in particular General Comments n.7, 12 and 15);

- States pursue water cooperation so as to ensure not just the rights of people alive today, but also those of future generations, as over extraction of surface and groundwater, poor flood control, destruction of ecosystems, pollution and other types of water resources management will have devastating long-term of human rights impacts (UNSR, 2012);

- States respect and fulfill in their cooperative activities a human rights framework that requires setting priorities in a way to meet the most basic requirements for all first. Basic access must be achieved before improving the standards to achieve. The principle of progressive realization relates to both moving towards universal basic access improving the level of services and ensuring that these services are sustained (avoiding retrogression).
- States ensure in their cooperative activities that the people affected by decisions, must be given opportunities to participate in decision-making about use of water resources. States must put into place particular mechanisms to ensure participation of those traditionally lacking voice, including people living in poverty, women, indigenous peoples and ethnic minorities. States must also ensure access to remedies –providing for redress mechanisms in the law as well as addressing the physical, linguistic, economic and other barriers that may prevent access to justice in practice- in order to ensure that States and other actors can be held into account to meet their obligations under human rights law.

2. A Message of Peace

The growing pressure on our water resources compels us to improve their governance. **Institutional cooperation is lacking.** The fact that only 40% of the world's transboundary basins benefit from cooperative agreements poses great risks in terms of environmental security, water security, economic development and political stability. 80% of these agreements are incomplete, obsolete or asymmetric. Transboundary basins represent 60% of global freshwater flow. This legal void is a direct threat to our security and to the populations whose livelihoods depend on them. UNSGAB emphasized the importance of Integrated Water Resources Management in its 2010 second Action Plan and recommended, at the transboundary level, that States ratify the two global Conventions governing international watercourses in order to provide basins with frameworks that will facilitate IWRM, and therefore, sustainable access to water.

**Welcoming the consolidation of international water law with the 1992 UNECE Water Convention becoming global and the forthcoming entry into force of the 1997 UN Watercourses Convention,**

WaterLex recommends that:

- States strengthens the legal framework of water cooperation in river basin management by:
  -ratifying the two conventions in order to provide transboundary basins with a legal framework and basic rules of cooperation and protection of those shared river basins.
  - adopting agreements specific to the specificity of each hydrographic basin and gathering all riparians and based on human rights so as to secure the protection and the cooperative and sustainable use of those basins.
- States unleash the benefits of cooperation by
  - ensuring that Basin authorities, following a human rights-based approach, require to build stakeholder’s capacities to effectively identify value, and share the bundle of water resources benefits (mechanisms), including at the transboundary level. This should be done in a manner that is agreed as fair and transparent for all the riparian states, and provides more grassroots’ benefits that trickle to the rural poor, which need to be incorporated in the bundle of benefits.
FAO predicts that by 2025, 1800 million people will be living in countries or regions with absolute water scarcity, and two thirds of the world population could be under Stress conditions. We are all concerned by the growing water scarcity, all impacted by the way water is allocated and, unfortunately, polluted. Addressing those issues in a democratic, equitable and transparent way is a matter of process and of cooperation among all water users.

Recalling that Integrated water resources management (IWRM), as developed by the World Bank and UNDP in the 1990s, constitutes a key approach to achieve a balance between water uses and ensure economic, social and environmental sustainability.

Recalling that water resources management impacts on a number of human basic needs, such as food, health, education, and an adequate standard of living;

Welcoming the first 2012 monitoring report of integrated water resources management plans,

WaterLex recommends that:

- States adopt and implement integrated water resources management plans that are based on human rights criteria and principles, so as to ensure that economic sustainability does not jeopardize social and environmental sustainability;

- States accordingly develop, implement and monitor human rights-based models for water management that 1/ give priorities to basic human needs; 2/ protect water quality; 3/ create the conditions of effective participation, especially from the affected population(s) in basin, in the decision-making process at all levels of water governance; and 4/ create the conditions of redress in case of damage; and

- States ensure a human rights impact assessment of water resources management plan.

4. A Message of Solidarity

Developmental cooperation constituted a major driver for the progress achieved towards the Millennium Development Goals so far. However current numbers related to water and sanitation access underestimate the true scale of the problem, since crucial aspects like continuous availability, drinking water quality and distance to facilities, among others, are currently not measured. For sanitation, traditionally neglected, the Millennium Development Goal will be missed by over half a billion people. At the same time, cooperation has diversified and a number of public-public and public-private partnerships have emerged. A major development has arisen with decentralized solidarity mechanisms. Global Water Solidarity
Recalling that the 2005 Paris Declaration on Aid Effectiveness and its 5 “aid effectiveness principles” (ownership, alignment, harmonization, result-based management and mutual accountability), reaffirmed in the 2008 Accra Agenda for Action, are part of a major global aid reform aimed at securing country ownership of the development agenda at national and local levels;

Recalling that the human rights framework is common to both donors and recipient States and therefore that international human rights obligations constitute a mutually agreed, universal normative framework, supported not only by political guarantees, but also by the force of legal obligations to which donors and recipient States are committed to;

Recalling that in accordance with the Charter for Decentralized Cooperation Mechanisms, the five principles of aid effectiveness (ownership, alignment, harmonization, managing for results and accountability) and human rights principles (universality, participation, accountability, non discrimination) apply to decentralized cooperation and inform its principles (universality, harmonization, mutual accountability, leverage, environmental sustainability, financial sustainability and technical sustainability);

WaterLex recommends that:

- States donors and banks fulfill their financial aid commitment as expressed at the 2012 High Level Water and Sanitation Forum, and dedicate 0.7% of their GNP towards international development aid, while prioritizing water in their programme, and promoting national evidence-based decision making and planning processes;

- States, donors and recipients, improve aid harmonization and alignment with national priorities that must target inequalities and discrimination in the country (monitoring system);

- States, donors and recipients, ensure that financial and technical cooperation has a lever effect on financing sustainability of water and sanitation sector in the country; and that

- Local authorities endorse the Global Water Solidarity Charter on Decentralized Solidarity Mechanisms for Water and Sanitation to publicly engage in promoting decentralized solidarity mechanisms (DSMs) along with the principles identified by the Global Water Solidarity.