

THE HUMAN RIGHTS TO WATER AND SANITATION

AN ANNOTATED SELECTION OF INTERNATIONAL
AND REGIONAL LAW AND MECHANISMS



NOTE TO THE READER: HOW TO USE THIS HANDBOOK

1. Refer to the detailed table of contents (p. 3) to identify the relevant framework you want to consult.
2. The descriptive summary of contents (p. 4) provides additional information on the type of content and material found in each chapter. This summary can therefore help identify the relevant chapter to consult according to your needs.
3. Consult the visual guide on p. 7 to understand the layout used throughout this handbook and to help you rapidly differentiate between the types of information referenced.



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FOREWORD

Eibe Riedel

President, WaterLex Board of Directors

While human rights – civil, economic, politic, social and cultural – are indivisible and inalienable, there are certain human rights which are not only fundamental but inherently elemental to many other human rights. The human right to water along with the human right to sanitation are two examples. Without the realisation of these rights, the human rights to health, education and to a healthy environment (to name but a few) simply cannot be realised. Unfortunately, access to safe, acceptable and affordable drinking water and sanitation is not ensured for all without discrimination. According to the World Health Organization (WHO)/UNICEF Joint Monitoring Programme, which reports country, regional and global estimates of progress on drinking water, sanitation and hygiene, 2.1 billion people still lacked safely managed drinking water services, and 4.5 million lacked safely managed sanitation services in 2015. The estimates also put forth important inequalities between rural and urban areas, as well as between other groups and the general population.¹

For countries to flourish, it is imperative for citizens to have regular access to safe, clean, and affordable water and sanitation. The only way to guarantee this access is to ensure effective water governance through the development of

well designed, workable and strong legal and policy frameworks. In this context, this handbook addresses existing water and sanitation-related international and regional frameworks. It is designed as a resource for practitioners who wish to improve water governance and contribute to the realisation of human rights to water and sanitation (HRWS) through national level law and policy which is compliance with international and regional law. Alternatively, it can be used by people who desire to bring their legitimate complaints to the international and regional human rights mechanisms. This book therefore targets civil society wishing to better inform and advocate for national level reforms, as well as actors such as parliamentarians or government officials, who want to understand the broader context of human rights to water and sanitation and strengthen their work.

This handbook compiles, collates, and annotates extracts from international and regional law, and mechanisms. It explains how different frameworks, such as international human rights law, environmental law and humanitarian law, can contribute to the realisation of the human rights to water and sanitation, and how existing mechanisms can help to advance these rights.

1 Progress on drinking water, sanitation and hygiene: 2017 update and SDG baselines. Geneva: World Health Organization (WHO) and the United Nations Children's Fund (UNICEF), 2017.

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DESCRIPTIVE SUMMARY OF CONTENTS

This book contains two main parts, which compile extracts of laws and mechanisms from respectively the international framework (Part A) and regional frameworks (Part B). At regional level four geographic areas are covered and can be referred to for specific continent-wide mechanisms and legal documents of relevance to the HRWS. These geographic areas are Africa and the Middle-East, the Americas, the Asia-Pacific region, and Europe.

The level of detail and type of material gathered seeks to be uniform across the frameworks represented. However, the information may vary throughout the chapters given the differences across the regions. For example, at international level, a specific mandate on the human rights to water and sanitation (HRWS) exists, whereas this is not the case at regional level. In those situations, the chapter elaborates more on other types of mechanisms that have a mandate closely related to the HRWS. Similarly, the structure adopted in each chapter and section differs according to the particularities of each framework identified.

The following outline provides the reader with guidance on the type of documentation found in each chapter. In addition, each framework is presented with an introductory comment, which will give the reader a brief overview of the corresponding framework under each chapter.

PART A

At **international level**, the material is compiled according to five main themes:

Chapter 1: The international human rights framework, comprised of multilateral human rights treaties, along with interpretative documents and related relevant mechanisms - this chapter is divided into four sections.

1. The first identifies human rights treaties. Whenever possible, relevant articles are combined with general recommendations or comments issued by treaty bodies, as well as their concluding observations on States Reports and views in relation to individual communications (complaints).
2. The second section collates State recommendations related to the HRWS from the Universal Periodic Review. The recommendations are divided according to whether they address (1) the human rights to water and sanitation (2) water only, or (3) sanitation only. In addition, they are regrouped within each of these three categories according to geographical regions.
3. The third section informs on the mandate and work of the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation, which is part of the Special Procedures of the Human Rights Council.
4. The fourth section discusses the role of national human rights institutions (NHRIs), which, although having a national mandate, have recognition at international level and can contribute to international human rights mechanisms. Through resolutions and other key documents, this section explores the origin of the establishment of NHRIs, the Global Alliance of National Human Rights Institutions (GANHRI), and NHRIs' role within international human rights mechanisms, and with respect to the HRWS. The last part of this section contains information on the NHRI Initiative for Good Water Governance, a programme launched by the Hungarian NHRI and WaterLex in 2013.

Chapter 2: Soft law, including resolutions, declarations and guidelines adopted by States worldwide;

Chapter 3: The **international humanitarian law** framework, with clauses arising from the Geneva Conventions and Additional Protocols. The introductory comment and the annotation help the reader understand the relevance of this framework for the HRWS.

Chapter 4: International environmental law is another important complementary framework. The material identified consists of treaties only. Relevant environment-related soft law instruments are found in chapter 2 (non-binding instruments) of this handbook.

Chapter 5: Access to water and sanitation in **international labour law**. This chapter focuses on work places through conventions and resolutions adopted by the International Labour Organization (ILO).

PART B

Chapter 6: The presentation of the framework applicable to the **African continent** follows a similar structure to Part A, with extracts from the human rights framework, including treaties, interpretative documents and other instruments and mechanisms arising from the African Commission on Human and Peoples' Rights (ACHPR). The chapter explores environmental law treaties that are relevance to the HRWS, and contains extracts from key resolutions and declarations adopted at the regional level in Africa. In addition, the sub-section on human rights instruments contains a treaty adopted by the Arab League, covering Arab countries, including those situated in Africa and the Middle-East.

Chapter 7: The **inter-American framework** demonstrates that the HRWS are implicitly enshrined in the main human rights treaties of the inter-American system. The case law identified, with various examples on Indigenous peoples' rights, helps understand the linkages between the various treaty rights and the HRWS. Extracts from resolutions adopted by the General Assembly of the Organization of American States (OAS), as well as other non-binding instruments complete the chapter with specific water and sanitation related clauses.

Chapter 8: The **Asia-Pacific region** does not have an established human rights framework that encompasses thematic human rights treaties, as in the inter-American or pan-African systems. This chapter therefore presents the material in a chronological manner with the aim of highlighting the relevant declarations, treaties and other documents that broadly address water and sanitation. The annotations in this chapter help the reader identify explicit mentions of access to drinking water and sanitation and more importantly their recognition as human rights.

Chapter 9: The **European framework** on the HRWS focuses on treaties and non-binding instruments adopted within the framework of the Council of Europe, in addition to providing relevant extracts from documents from the European Union that are particularly related to the HRWS from a water resources perspective. The last section of this also includes other instruments, such as the Protocol on Water and Health to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, which is an important regional instrument contributing to the realisation of the HRWS.

DISCLAIMER

The human rights to water and sanitation are two distinct but related human rights (see namely chapters 1 and 2 for more information). The annotations and comments throughout this handbook treat those rights as such, differentiating between clauses on only access to water or on access to sanitation. The original texts remain unaltered.

Unless otherwise stated, all treaties presented in this handbook are in force, as of November 2017.

This publication does not attempt to inform on the number of States that are party to each of the treaties listed as this information is changing.

The handbook seeks to be as concise as possible. All original documents can be found online and can be consulted for additional clauses that can complement those extracted in this compilation. Particularly, concluding observations issued by treaty bodies, or other interpretative documents may contain additional paragraphs on the HRWS. Only the most relevant provisions, usually recommendations, and operative paragraphs have been included as extracts, due to the length of the compiled material. In addition, only few examples of concluding observations from the past 10 years have been included in this handbook to illustrate the implementation of certain articles, but more examples exist.

This handbook does not seek to explain the complete functioning of each mechanism discussed, but rather to make links between the work and mandate of such mechanisms and the HRWS.

Each mechanism identified in this handbook is implemented with specific rules of procedures which could not be reproduced here. These can include requirements that must be met e.g. before submitting a complaint to a mechanism identified.

In part B, only regional, continent-wide mechanisms and instruments (as opposed to sub-regional) are collated. However, in certain cases, notably in Asia, sub-regional instruments are also discussed due to the absence of one coherent regional human rights framework.

VISUAL GUIDE

Legally binding document

Background information on the treaty and relevant related mechanisms

1

Convention on the Rights of Persons with Disabilities (2006)

2

Reporting and complaints mechanisms through the Committee on the Rights of Persons with Disabilities

3

According to Article 35 of the Convention on the Rights of Person with Disabilities (CRPD), every four years States Parties are required to submit to the Committee on the Rights of Persons with Disabilities a comprehensive report on measures taken to give effect to their obligations under the Convention and on the progress made in that regard.

4

Since the adoption of the Optional Protocol to the CRPD, the Committee is also competent to receive and consider communications from individuals who claim to be victims of a violation of the human rights set out in the Convention. The eligible complaints must be submitted by individuals subject to the jurisdiction of a State that has ratified the Optional Protocol. As of publishing, no relevant complaint concerning the rights to water and sanitation was issued. However, a few relevant General Comments and concluding observations have been identified below.

5



Adequate standard of living and social protection - Article 28:

6

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to and promote the realization of this right without discrimination on the basis of disability.

7

2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures: (a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs; ...

8

 Explicit mention of access to clean water services

9

As interpreted by the Committee on the Rights of Persons with Disabilities

Concluding observations - CRPD/C/SLV/CO/1 - 8 October 2013¹⁵

The Committee notes that social protection measures mainly protect persons whose disabilities result from the armed conflict, and that the State does not have strategies for fulfilling the various aspects of the right to an adequate standard of living and social protection, such as ... drinking water The Committee is concerned that persons with disabilities ... those living in rural and remote areas cannot access certain basic services, such as drinking water and sanitation, and that plans to provide water do not take their needs into account.⁵⁸ ... The Committee urges the State party to adopt, through consultation with organizations of persons with disabilities, measures for the elimination of barriers to the access of such persons to basic services, drinking water and sanitation in rural and remote areas, and to include the organizations in monitoring their implementation."

Key information

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¹⁵ For other examples of concluding observations citing Art. 28, see: CRPD/C/GTM/CO/1 and CRPD/C/MEX/CO/1.

Article number and subject, along with relevant paragraphs

Article interpretation

PART A
INTERNATIONAL FRAMEWORK



CHAPTER 1

INTERNATIONAL HUMAN RIGHTS FRAMEWORK

1.1. INTERNATIONAL HUMAN RIGHTS TREATIES: LEGAL BASIS FOR THE HRWS

**By Gabriella Casanova Mendes Borba, WaterLex
Graduate Institute of International and Development Studies**

Human rights treaties represent the backbone of the international framework on the human rights to water and sanitation, guaranteeing an implicit legal basis for the realisation of those rights. This chapter starts by introducing two important conventions that entail specific groups of rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR), both of which were adopted in 1966 by the United Nations General Assembly. Following the adoption of these two main covenants, other human rights treaties were agreed upon to protect specific groups of people or to deal with particular situations, such as the Convention on the Elimination of All Forms of Discrimination Against Women (1979), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Convention on the Rights of the Child (1989) and the Convention the Rights of Persons with Disabilities (2006) to name a few. The rights to water and sanitation are not explicitly mentioned in the text of older treaties like the ICCPR and ICESCR, but can be derived from them. More recent treaties, however, enshrine clauses addressing access to water and sanitation, like in the thematic treaties on the rights of the child, non-discrimination against women, and the rights of persons with disabilities.

In 2002, the Committee for Economic, Social and Cultural Rights adopted General Comment No. 15, an important milestone for the HRWS. General Comments serve as interpretative documents adopted by treaty bodies (Committees), that elaborate on the contents of rights found in those treaties and provide guidance for their compliance and monitoring. Specifically, General Comment No. 15, referring also to previous General Comments, determined that the right to water is implicitly included in the right to an adequate standard of living, in Article 11 of the ICESCR, and is inextricably related to the right to health (Art. 12). Further recognition came in 2010, when the UN General Assembly issued a resolution (A/RES/64/292) recognising the human right to water and sanitation and, in the following year, the Human Rights Council reaffirmed this position with resolution (A/HRC/RES/18/1).

The present chapter presents relevant HRWS-related extracts from six human rights treaties and complements them with compatible interpretative documents, such as General Comments and Recommendations. A selection of concluding observations is also contained in this chapter to demonstrate how human rights treaty bodies discuss the HRWS in assessing the implementation of treaties by States Parties and to illustrate the main concerns related to those rights as addressed by each Committee. Recurring issues involve mainly disparities in living standards, especially in rural areas; prison conditions; and discrimination against minority groups. Finally, individual communications (complaints) mechanisms within the international human rights framework are usually contained in an optional protocol to a main human rights treaty. Through such mechanisms, Committees can receive complaints or communications from individuals who allege their rights under a respective treaty have been violated. In addition, several treaties contain an inter-State complaints mechanism, whereby a State Party may submit a complaint on an alleged violation of a given treaty by another State Party. It should be noted however that the complaints mechanisms do not automatically apply to all States Parties to a main human rights treaty. States must first recognise the competence of the relevant treaty body to hear such complaint, either via a declaration, or ratification of an optional protocol, as applicable in each case. Additionally, although State-to-State mechanisms exist, so far these procedures have never been used. Relevant individual cases related to the HRWS that were heard under each treaty body, are identified in this chapter, and linked to the relevant article discussed in the complaint. These cases provide additional information on the interpretation of certain clauses in a human rights treaty.



International Covenant on Economic, Social and Cultural Rights (1966)

Reporting and complaints mechanisms through the Committee on Economic, Social and Cultural Rights

States Parties to the ICESCR are required under Article 16(1) to submit reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized therein. The reports are considered by the Committee on Economic, Social and Cultural Rights (CESCR), which thereafter issues concluding observations on the periodic reports. Several examples in this section demonstrate that although the HRWS is not explicitly entailed in this Covenant, those rights have been looked at in relation to several Covenant rights.

An individual communications procedure is further set out by the Optional Protocol to the ICESCR. States Parties to the Optional Protocol recognise the competence of the CESCR to receive and consider communications submitted by individuals who claim to be victims of a violation of economic, social and cultural rights set forth in the Covenant (Articles 1 and 2 of the Protocol). This procedure under the Optional Protocol is a recent mechanism, which was adopted by the UN General Assembly on 10 December 2008 and opened to ratification on September of the following year. As determined by Article 18, the Protocol entered into force three months after the deposit of the tenth instrument of ratification, in May 2013. As of October 2017, only 22 States have acceded to the Protocol and the Committee has heard only a few cases since its entry into force. To date, no relevant individual communications on water and sanitation were considered by the Committee.

Finally, the Committee has adopted over 20 General Comments interpreting the various rights found in the ICESCR. Key extracts are identified in this section under the most related Covenant Articles. General Comment No. 15 on the right to water is not only listed together with certain Articles, but also separately, at the end of the section, given the number of important paragraphs on the normative content of the HRWS and States' obligations.



Progressive realisation of human rights under the Covenant - Article 2(1):

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

As interpreted by the Committee on Economic, Social and Cultural Rights

General Comment No. 15 on the right to water

Para 17: "While the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes on States parties various obligations which are of immediate effect. States parties have immediate obligations in relation to the right to water, such as the guarantee that the right will be exercised without discrimination of any kind (art. 2, para. 2) and the obligation to take steps (art. 2, para.1) towards the full realization of articles 11, paragraph 1, and 12. Such steps must be deliberate, concrete and targeted towards the full realization of the right to water."

Para 29: "In accordance with the rights to health and adequate housing (see General Comments No. 4 (1991) and 14 (2000)) States parties have an obligation to progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account the needs of women and children."

Para 37: “In General Comment No. 3 (1990), the Committee confirms that States Parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant. In the Committee’s view, at least a number of core obligations in relation to the right to water can be identified, which are of immediate effect:

- (a) To ensure access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease;
- (b) To ensure the right of access to water and water facilities and services on a non-discriminatory basis, especially for disadvantaged or marginalized groups;
- (c) To ensure physical access to water facilities or services that provide sufficient, safe and regular water; that have a sufficient number of water outlets to avoid prohibitive waiting times; and that are at a reasonable distance from the household;
- (d) To ensure personal security is not threatened when having to physically access to water;
- (e) To ensure equitable distribution of all available water facilities and services;
- (f) To adopt and implement a national water strategy and plan of action addressing the whole population; the strategy and plan of action should be devised, and periodically reviewed, on the basis of a participatory and transparent process; it should include methods, such as right to water indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all disadvantaged or marginalized groups;
- (g) To monitor the extent of the realization, or the non-realization, of the right to water;
- (h) To adopt relatively low-cost targeted water programmes to protect vulnerable and marginalized groups;
- (i) To take measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation;”



Non-discrimination - Article 2(2):

The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

As interpreted by the Committee on Economic, Social and Cultural Rights

General Comment No. 15 on the right to water

Para 13: “The obligation of States parties to guarantee that the right to water is enjoyed without discrimination (art. 2, para. 2), and equally between men and women (art. 3), pervades all of the Covenant obligations. The Covenant thus proscribes any discrimination on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to water. The Committee recalls paragraph 12 of General Comment No. 3 (1990), which states that even in times of severe resource constraints, the vulnerable members of society must be protected by the adoption of relatively low-cost targeted programmes.”



See more extracts from General Comment No. 15 on issues related to non-discrimination, at pages 20 and 22.

Statement on the Right to Sanitation

Para 8: “In line with the definition of sanitation as proposed by the Independent Expert on water and sanitation as “a system for the collection, transport, treatment and disposal or re-use of human excreta and associated hygiene”, States must ensure that everyone, without discrimination, has physical and affordable access to sanitation, “in all spheres of life, which is safe, hygienic, secure, socially and culturally acceptable, provides privacy and ensures dignity”. The Committee is of the view that the right to sanitation requires full recognition by States parties in compliance with the human rights principles related to non-discrimination, gender equality, participation and accountability.”



See more from the Statement on the right to sanitation under ICESCR Articles 11 and 12.

General Comment No. 20 on non-discrimination in economic, social and cultural rights

Para 8: “Substantive discrimination ... States parties must therefore immediately adopt the necessary measures to prevent, diminish and eliminate the conditions and attitudes which cause or perpetuate substantive or de facto discrimination. For example, ensuring that all individuals have equal access to adequate housing, water and sanitation will help to overcome discrimination against women and girl children and persons living in informal settlements and rural areas.”

Para 25. “Property status, as a prohibited ground of discrimination, is a broad concept and includes real property (e.g. land ownership or tenure) and personal property (e.g. intellectual property, goods and chattels, and income), or the lack of it. The Committee has previously commented that Covenant rights, such as access to water services and protection from forced eviction, should not be made conditional on a person’s land tenure status, such as living in an informal settlement.”

**Equal rights of men and women - Article 3:**

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

As interpreted by the Committee on Economic, Social and Cultural Rights

General Comment No. 16 on the equal right of men and women to the enjoyment of all economic, social and cultural rights

Para 29: “The implementation of article 3, in relation to article 12, requires at a minimum the removal of legal and other obstacles that prevent men and women from accessing and benefiting from health care on a basis of equality. This includes, inter alia, addressing the ways in which gender roles affect access to determinants of health, such as water and food ...”

**Right to gain a living by work - Article 6:**

The States parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts ...

As interpreted by the Committee on Economic, Social and Cultural Rights

General Comment No. 15 on the right to water

Para 6: “Water is required for a range of different purposes, besides personal and domestic uses, to realize many of the Covenant rights... Water is essential for securing livelihood (right to gain a living by work) ...”

**Right to just and favourable conditions of work - Article 7:**

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular: ... (b) Safe and healthy working conditions.

As interpreted by the Committee on Economic, Social and Cultural Rights

General Comment No. 23 on the right to on the right to just and favourable conditions of work

Para 30: “Access to safe drinking water, adequate sanitation facilities that also meet women’s specific hygiene needs, and materials and information to promote good hygiene are essential elements of a safe and healthy working environment.”

General Comment No. 15 on the right to water

Para 12(c)(i): “... Sufficient, safe and acceptable water must be accessible within, or in the immediate vicinity, of each ... workplace.”



For standards on water and sanitation in workplaces, see chapter 5 on the International Labour Organization’s framework.



Right to social security - Article 9:

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

As interpreted by the Committee on Economic, Social and Cultural Rights

General Comment No. 19 on the right to social security

Para 18: "... Family and child benefits, including cash benefits and social services, should be provided to families, without discrimination on prohibited grounds, and would ordinarily cover ... water and sanitation ..."

Para 28: "The right to social security plays an important role in supporting the realization of many of the rights in the Covenant, but other measures are necessary to complement the right to social security. For example, States parties should ... adopt measures to ... improve health facilities, goods and services (article 12)."

Para 59: "States parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant. This requires the State party: (a) To ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, ... "



Right to an adequate standard of living - Article 11(1):

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.



See also reporting guidelines below, under ICESCR Article 16.

As interpreted by the Committee on Economic, Social and Cultural Rights²

General Comment No. 15 on the right to water

Para 3: "Article 11, paragraph 1, of the Covenant specifies a number of rights emanating from, and indispensable for, the realization of the right to an adequate standard of living "including adequate food, clothing and housing". The use of the word "including" indicates that this catalogue of rights was not intended to be exhaustive. The right to water clearly falls within the category of guarantees essential for securing an adequate standard of living particularly since it is one of the most fundamental conditions for survival. Moreover, the Committee has previously recognized that water is a human right contained in article 11, paragraph 1, (see General Comment No. 6 (1995)). The right to water is also inextricably related to the right to the highest attainable standard of health (art. 12, para 1) and the rights to adequate housing and adequate food (art. 11, para 1) ..."

Para 11: "The elements of the right to water must be adequate for human dignity, life and health, in accordance with articles 11, paragraph 1, and 12. ..."

2 It is interesting to note that before General Comment No. 15, considerations of States Parties' reports by the Committee made no mention of the human right[s] to water and sanitation. For examples of other considerations concerning water and sanitation before 2002, see: E/C.12/1/Add.62 (24 September 2001), E/C.12/1/Add.60 (21 May 2001) and E/C.12/1/Add.69 (31 August 2001).

Statement on the Right to Sanitation

Para 7: “The Committee reaffirms that, since sanitation is fundamental for human survival and for leading a life in dignity, the right to sanitation is an essential component of the right to an adequate standard of living, enshrined in Article 11 of the International Covenant on Economic, Social and Cultural Rights.”

 See more from the Statement on the right to sanitation under ICESCR Articles 2 and 12.

General Comment No. 4 on the right to housing

Para 8b: “... All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, ... sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services; ...”

General Comment No. 6 on the economic, social and cultural rights of older persons

Para 32: “Of the United Nations Principles for Older Persons, principle 1, which stands at the beginning of the section relating to the independence of older persons, provides that: “Older persons should have access to adequate food water, shelter, clothing and health care through the provision of income, family and community support and self-help.” The Committee attaches great importance to this principle, which demands for older persons the rights contained in article 11 of the Covenant.”

General Comment No. 8 on the relationship between economic sanctions and respect for economic, social and cultural rights

Para 3: “While the impact of sanctions varies from one case to another, the Committee is aware that they almost always have a dramatic impact on the rights recognized in the Covenant. Thus, for example, they often cause significant disruption in the distribution of food, pharmaceuticals and sanitation supplies, jeopardize the quality of food and the availability of clean drinking water ...”

Para 5: “However, a number of recent United Nations and other studies which have analysed the impact of sanctions have concluded that these exemptions do not have this effect. Moreover, the exemptions are very limited in scope. They do not address, for example, the question of access to primary education, nor do they provide for repairs to infrastructures which are essential to provide clean water, adequate health care, etc.”

General Comment No. 24 on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities³

Para 9: “The Committee ... recommends that States Parties address the specific impacts of business activities on women and girls, including indigenous women and girls, and incorporate a gender perspective into all measures to regulate business activities that may adversely affect economic, social and cultural rights ...”

Para 12: “States parties and businesses should respect the principle of free, prior and informed consent of indigenous peoples in relation to all matters that could affect their rights, including their lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.”

Para 13: “The conclusion of [trade or investment treaties] should ... be preceded by human rights impact assessments ... The interpretation of trade and investment treaties currently in force should take into account the human rights obligations of the State ...”

Para 16: “The obligation to protect entails a positive duty to adopt a legal framework requiring business entities to exercise human rights due diligence in order to identify, prevent, and mitigate the risks of violations of Covenant rights ...”

3 On this topic, it is relevant to highlight the United Nations (UN) Protect, Respect and Remedy Framework for Business and Human Rights (A/HRC/8/5 – 7 April 2008) as a set of principles and policy framework designed to reduce corporate related human rights damage. The responsibilities are complementary and based on three core principles: the State duty to protect against human rights infringements by third parties, including businesses; the business responsibility to respect human rights; and the necessity for more effective access to remedies. GC No. 23 develops further on different aspects related to this framework.

Para 21: “Privatization is not per se prohibited by the Covenant, even in areas such as the provision of water or electricity, education or health care where the role of the public sector has traditionally been strong. Private providers should, however, be subject to strict regulations that impose on them so-called “public service obligations”: in the provision of water or electricity, this may include requirements concerning universality of coverage and continuity of service, pricing policies, quality requirements, and user participation.”

Para 22: “The provision by private actors of goods and services essential for the enjoyment of Covenant rights should not lead the enjoyment of Covenant rights to be made conditional on the ability to pay, which would create new forms of socioeconomic segregation.”

Para 23: “The obligation to fulfil requires States parties to take necessary steps, to the maximum of their available resources, to facilitate and promote the enjoyment of Covenant rights, and, in certain cases, to directly provide goods and services essential to such enjoyment.”

Para 26: “States Parties are required to take the necessary steps to prevent human rights violations abroad by corporations domiciled in their territory and/or jurisdiction. ...”

Concluding observations - E/C.12/1/Add.78 - 5 June 2002

22. “The Committee notes with concern the disparities in living standards between urban and rural areas, given that people living in rural areas have considerably less access to drinking water, sanitation and electricity and that the privatization of water and electricity are leading to a rise in costs.”

41. “The Committee urges the State party to do whatever is necessary to reduce the current disparities between urban and rural areas, by improving access to water, electricity and sanitation in rural areas and ensuring that water and electricity remain affordable”

Concluding observations - E/C.12/CAN/CO/4 - 22 May 2006

30. “The Committee regrets that the State party does not recognize the right to water as a legal entitlement, which is implicitly provided for under articles 11 and 12 of the Covenant, as outlined in the Committee’s general comment No. 15 (2002) on the right to water.”

Concluding observations - E/C.12/IDN/CO/1 - 19 June 2014⁴

“Water and sanitation

26. The Committee is concerned that, in rural areas, approximately one quarter of the population does not have access to safe drinking water and that open defecation is still widely practiced, in spite of the implementation of the National Policy for Community-Based Water Supply and Environmental Sanitation (arts. 11 and 12).

The Committee calls on the State party to strengthen efforts for the improvement of access to safe and clean drinking water and to improved sanitation, particularly in rural areas. The Committee refers the State party to its general comment No. 15 (2002) on the right to water and to its statement on the right to sanitation (E/C.12.2010/1)⁵”

Concluding observations - E/C.12/CHL/CO/4 - 7 July 2015

“Right to drinking water and sanitation

27. The Committee is concerned by the limited access to drinking water and sanitation services, in particular in rural areas, and the disproportionate and unsustainable use of water by the mining industry (art. 11).⁵

The Committee recommends that the State party should ensure access to drinking water and sanitation services for the most disadvantaged and marginalized groups, particularly in rural areas, and take the necessary steps to ensure moderate use of water by the mining industry, including the adoption of standards for the processing of waste water in mining.”

4 For a similar mention of article 11, see: E/C.12/YEM/CO/2 (22 June 2011) and for another example of links between water, sanitation and article 12, see namely: E/C.12/TGO/CO/1 (3 June 2013)

5 Other concluding observations have made similar remarks about article 11, emphasizing the need for water and sanitation services to reach rural areas and other vulnerable communities, such as refugee camps, informal settlements and arid regions. See namely: E/C.12/ETH/CO/1-3 (31 May 2012) and E/C.12/KEN/CO/1 (01 December 2008)

Concluding observations - E/C.12/LBN/CO/2 - 24 October 2016

"Rights to water and sanitation

54. ... the Committee is concerned at the significant time that it has taken to resolve the recent waste management crisis. The Committee is also concerned at insufficient access to safe drinking water and regrets the lack of information on measures taken to remedy the situation (arts. 11 and 12).

55. The Committee recommends that the State party: ...

(b) Ensure access to safe drinking water and sanitation without discrimination, including through investment in infrastructure;

(c) Establish, where appropriate, an independent regulatory system to monitor the provision of water, sanitation and waste management services.

56. The Committee refers the State party to its general comment No. 15 (2002) on the right to water and its statement on the right to sanitation (2010)."



Right to health - Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for ... the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational, and other diseases; ...



See also reporting guidelines under ICESCR Article 16, below.

As interpreted by the Committee on Economic, Social and Cultural Rights

General Comment No. 14 on the right to the highest attainable standard of health (Art. 12)

Para 4: "... the drafting history and the express wording of article 12.2 acknowledge that the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, ... access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment".

NORMATIVE CONTENT

Para 11: "The Committee interprets the right to health, as defined in article 12.1, as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, ... healthy occupational and environmental conditions,"

Para 12a: "The right to health in all its forms and at all levels contains the following interrelated and essential elements, the precise application of which will depend on the conditions prevailing in a particular State party: (a) Availability. Functioning public health and health-care facilities, goods and services, as well as programmes, have to be available in sufficient quantity within the State party. The precise nature of the facilities, goods and services will vary depending on numerous factors, including the State party's developmental level. They will include, however, the underlying determinants of health, such as safe and potable drinking water and adequate sanitation facilities"

Para 12b(iii): "Accessibility also implies that ... underlying determinants of health, such as safe and potable water and adequate sanitation facilities, are within safe physical reach, including in rural areas."

Para 12d: "As well as being culturally acceptable, health facilities, goods and services must also be scientifically and medically appropriate and of good quality. This requires, inter alia ... safe and potable water, and adequate sanitation."

[Article 12.2 (b) *The right to healthy natural and workplace environments*]

Para 15: “The improvement of all aspects of environmental and industrial hygiene” (art. 12.2 (b)) comprises, inter alia, preventive measures in respect of occupational accidents and diseases; the requirement to ensure an adequate supply of safe and potable water and basic sanitation ...”

[2. STATE PARTIES' OBLIGATIONS]

Para 34: “... States should also refrain from unlawfully polluting air, water and soil, ...”.

Para 36: “The obligation to fulfil requires States parties, inter alia, to give sufficient recognition to the right to health in the national political and legal systems, preferably by way of legislative implementation, and to adopt a national health policy with a detailed plan for realizing the right to health. States must ... ensure equal access for all to the underlying determinants of health, such as nutritiously safe food and potable drinking water, basic sanitation ...”.

Para 51: “Violations of the obligation to protect follow from the failure of a State to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to health by third parties. This category includes such omissions as ... the failure to enact or enforce laws to prevent the pollution of water ... by extractive and manufacturing industries.”

Para 40: “States parties have a joint and individual responsibility, in accordance with the Charter of the United Nations and relevant resolutions of the United Nations General Assembly and of the World Health Assembly, to cooperate in providing disaster relief and humanitarian assistance in times of emergency, including assistance to refugees and internally displaced persons. Each State should contribute to this task to the maximum of its capacities. Priority in the provision of international medical aid, distribution and management of resources, such as safe and potable water, food and medical supplies, and financial aid should be given to the most vulnerable or marginalized groups of the population.”

Para 43: “In General Comment No. 3, the Committee confirms that States parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant, including essential primary health care. ... Accordingly, in the Committee’s view, these core obligations include at least the following obligations: ... (c) To ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water”

Para 65: “The role of WHO, the Office of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross/Red Crescent and UNICEF, as well as non governmental organizations and national medical associations, is of particular importance in relation to disaster relief and humanitarian assistance in times of emergencies, including assistance to refugees and internally displaced persons. Priority in the provision of international medical aid, distribution and management of resources, such as safe and potable water.”

General Comment No. 15 on the right to water

Para 3: “The right to water is also inextricably related to the right to the highest attainable standard of health (art. 12, para. 1)”

Para 11: “The elements of the right to water must be *adequate* for human dignity, life and health, in accordance with articles 11, paragraph 1, and 12.”

Statement on the Right to Sanitation

Para 7: “... The right to sanitation is also integrally related, among other Covenant rights, to the right to health, as laid down in Article 12 paragraphs 1 and 2 (a), (b) and (c), ... It is significant, however, that sanitation has distinct features which warrant its separate treatment from water in some respects. Although much of the world relies on waterborne sanitation, increasingly sanitation solutions which do not use water are being promoted and encouraged.”



See more from the
Statement on the
right to sanitation
under ICESCR
Articles 2 and 11.

General Comment No. 22 the right to sexual and reproductive health

Para 7: “The right to sexual and reproductive health extends beyond sexual and reproductive health care to the underlying determinants of sexual and reproductive health, including access to safe and potable water, adequate sanitation, ... and other human rights violations that have a negative impact on the right to sexual and reproductive health.”

Para 12: “An adequate number of functioning health-care facilities, services, goods and programmes should be available to provide the population with the fullest possible range of sexual and reproductive health care. This includes ensuring the availability of facilities, goods and services for the guarantee of the underlying determinants of the realization of the right to sexual and reproductive health, such as safe and potable drinking water and adequate sanitation facilities, ...”

**Right to education - Article 13(1):**

The States Parties to the present Covenant recognize the right of everyone to education. ...

As addressed by the Committee on Economic, Social and Cultural Rights

General Comment No. 13 on the right to education

Para 6: “all institutions and programmes are likely to require buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, ...”

General Comment No. 15 on the right to water

Para 12(c)(i): “...Sufficient, safe and acceptable water must be accessible within, or in the immediate vicinity, of each household, educational institution ...”

Para 16: “... In particular, States parties should take steps to ensure that: ... (b) Children are not prevented from enjoying their human rights due to the lack of adequate water in educational institutions and households or through the burden of collecting water. Provision of adequate water to educational institutions currently without adequate drinking water should be addressed as a matter of urgency;”

**Reporting requirements - Article 16(1):**

The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

As interpreted by the Committee on Economic, Social and Cultural Rights

The first General Comment adopted by the CESCR discussed the reporting obligations of State Parties. Among others, the Committee highlighted seven key objectives of the reporting cycle which are also relevant for other human rights treaties.

General Comment No. 1 on reporting by State Parties

Para 2: “A first objective, which is of particular relevance to the initial report required to be submitted within two years of the Covenant’s entry into force for the State party concerned, is to ensure that a comprehensive review is undertaken with respect to national legislation ...”

Para 3: “A second objective is to ensure that the State party monitors the actual situation with respect to each of the rights on a regular basis and is thus aware of the extent to which the various rights are, or are not, being enjoyed by all individuals within its territory or under its jurisdiction ...”

Para 4: “While monitoring is designed to give a detailed overview of the existing situation, the principal value of such an overview is to provide the basis for the elaboration of clearly stated and carefully targeted policies, including the establishment of priorities which reflect the provisions of the Covenant. Therefore, a third objective of the reporting process is to enable the Government to demonstrate that such principled policy making has in fact been undertaken ...”

Para 5: “A fourth objective of the reporting process is to facilitate public scrutiny of government policies with respect to economic, social and cultural rights and to encourage the involvement of the various economic, social and cultural sectors of society in the formulation, implementation and review of the relevant policies ...”

Para 6: “A fifth objective is to provide a basis on which the State party itself, as well as the Committee, can effectively evaluate the extent to which progress has been made towards the realization of the obligations contained in the Covenant. ...”

Para 8: “A sixth objective is to enable the State party itself to develop a better understanding of the problems and shortcomings encountered in efforts to realize progressively the full range of economic, social and cultural rights. For this reason, it is essential that States parties report in detail on the “factors and difficulties” inhibiting such realization. ...”

Para 9: “A seventh objective is to enable the Committee, and the States parties as a whole, to facilitate the exchange of information among States and to develop a better understanding of the common problems faced by States ...”

Committee on Economic, Social and Cultural Rights, Guidelines on Treaty-Specific Documents to be Submitted by States Parties under Articles 16 and 17 of the ICESCR

“Article 11 ... C. The right to water

48. Indicate:

- (a) The measures taken to ensure adequate and affordable access to water that is sufficient and safe for personal and domestic uses for everyone;
- (b) The percentage of households without access to sufficient and safe water in the dwelling or within its immediate vicinity, disaggregated by region and urban/rural population and the measures taken to improve the situation;
- (c) The measures taken to ensure that water services, whether privately or publicly provided, are affordable for everyone; and
- (d) The system in place to monitor the quality of water.

49. Provide information on education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage.

D. The right to an adequate housing

50. Indicate whether a national survey on homelessness and inadequate housing has been undertaken, as well as its findings, in particular the number of individuals and families who are homeless or inadequately housed and without access to basic infrastructures and services such as water, ... sanitation ...

Article 12...

57. Provide information on the measures taken: ... (b) To prevent, treat and control diseases linked to water and ensure access to adequate sanitation;”

NORMATIVE CONTENT OF THE RIGHT TO WATER

Para 12 “While the adequacy of water required for the right to water may vary according to different conditions, the following factors apply in all circumstances:

(a) Availability: The water supply for each person must be sufficient and continuous for personal and domestic uses.”

(b) Quality: The water required for each personal or domestic use must be safe, therefore free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person’s health. Furthermore, water should be of an acceptable colour, odour and taste for each personal or domestic use.

(c) Accessibility: Water and water facilities and services have to be accessible to everyone without discrimination, within the jurisdiction of the State party. Accessibility has four overlapping dimensions:

(i) Physical accessibility: Water, and adequate water facilities and services, must be within safe physical reach for all sections of the population. Sufficient, safe and acceptable water must be accessible within, or in the immediate vicinity, of each household, educational institution and workplace. All water facilities and services must be of sufficient quality, culturally appropriate and sensitive to gender, life-cycle and privacy requirements. Physical security should not be threatened during access to water facilities and services.

(ii) Economic accessibility: Water, and water facilities and services must be affordable for all. The direct and indirect costs and charges associated with securing water must be affordable, and must not compromise or threaten the realization of other Covenant rights.

(iii) Non-discrimination: Water and water facilities and services must be accessible to all, including the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds; and

(iv) Information accessibility: includes the right to seek, receive and impart information concerning water issues.”

Table 1. Examples of groups that may require special attention

On non-discrimination, see also ICESCR Article 2(2) above. States parties are required to give special attention to those individuals and groups who face difficulties in exercising the rights to water and sanitation. The following groups may require special attention or may face challenges related to access to water and sanitation:⁶

Women	Children	Minority groups	Indigenous peoples	Older persons
Persons with disabilities	Migrant workers	Prisoners and detainees	Lesbian, gay, bisexual, transgender, intersex and gender non-conforming persons	Nomadic and traveler communities
Rural and deprived urban areas, informal human settlements and homeless persons		Refugees, asylum seekers, internally displaced persons and returnees		Victims of natural disasters, persons living in disaster-prone areas, in arid and semi-arid areas, or on small islands

⁶ See notably CESCR General Comment No. 15 para 16.

STATES PARTIES' OBLIGATIONS

Obligations to respect

Para 21: "The obligation to respect requires that States parties refrain from interfering directly or indirectly with the enjoyment of the right to water. The obligation includes, inter alia, refraining from engaging in any practice or activity that denies or limits equal access to adequate water; arbitrarily interfering with customary or traditional arrangements for water allocation; unlawfully diminishing or polluting water, for example through waste from State-owned facilities or through use and testing of weapons; and limiting access to, or destroying, water services and infrastructure as a punitive measure, for example, during armed conflicts in violation of international humanitarian law."

 See also extracts on obligations of immediate effect, under Article 2(1).

Obligations to protect

Para 23: "The obligation to protect requires State parties to prevent third parties from interfering in any way with the enjoyment of the right to water. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority. The obligation includes, inter alia, adopting the necessary and effective legislative and other measures to restrain, for example, third parties from denying equal access to adequate water; and polluting and inequitably extracting from water resources, including natural sources, wells and other water distribution systems."

Para 24: "Where water services (such as piped water networks, water tankers, access to rivers and wells) are operated or controlled by third parties, States parties must prevent them from compromising equal, affordable, and physical access to sufficient, safe and acceptable water. To prevent such abuses an effective regulatory system must be established, in conformity with the Covenant and this General Comment, which includes independent monitoring, genuine public participation and imposition of penalties for non-compliance."

Obligations to fulfil

Para 25: "The obligation to fulfil can be disaggregated into the obligations to facilitate, promote and provide. The obligation to facilitate requires the State to take positive measures to assist individuals and communities to enjoy the right. The obligation to promote obliges the State party to take steps to ensure that there is appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage. States parties are also obliged to fulfil (provide) the right when individuals or a group are unable, for reasons beyond their control, to realize that right themselves by the means at their disposal."

Para 26: "The obligation to fulfil requires States parties to adopt the necessary measures directed towards the full realization of the right to water. The obligation includes, inter alia, according sufficient recognition of this right within the national political and legal systems, preferably by way of legislative implementation; adopting a national water strategy and plan of action to realize this right; ensuring that water is affordable for everyone; and facilitating improved and sustainable access to water, particularly in rural and deprived urban areas."

Para 27: "To ensure that water is affordable, States parties must adopt the necessary measures that may include, inter alia: (a) use of a range of appropriate low-cost techniques and technologies; (b) appropriate pricing policies such as free or low-cost water; and (c) income supplements. Any payment for water services has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups. Equity demands that poorer households should not be disproportionately burdened with water expenses as compared to richer households."

 Affordability criterion

Para 28: "States parties should adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations. Such strategies and programmes may include: (a) reducing depletion of water resources through unsustainable extraction, diversion and damming; (b) reducing and eliminating contamination of watersheds and water-related ecosystems by substances such as radiation, harmful chemicals and human excreta; (c) monitoring

 Sustainability (infrastructure and environment)

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water reserves; (d) ensuring that proposed developments do not interfere with access to adequate water; (e) assessing the impacts of actions that may impinge upon water availability and natural-ecosystems watersheds, such as climate changes, desertification and increased soil salinity, deforestation and loss of biodiversity; (f) increasing the efficient use of water by end-users; (g) reducing water wastage in its distribution; (h) response mechanisms for emergency situations; (i) and establishing competent institutions and appropriate institutional arrangements to carry out the strategies and programmes.”

Para 29: “Ensuring that everyone has access to adequate sanitation is not only fundamental for human dignity and privacy, but is one of the principal mechanisms for protecting the quality of drinking water supplies and resources. In accordance with the rights to health and adequate housing (see General Comments No. 4 (1991) and 14 (2000)) States parties have an obligation to progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account the needs of women and children.”



Importance of safe sanitation services for drinking water quality

IMPLEMENTATION AT THE NATIONAL LEVEL

Legislation, strategies and policies

Para 47: “The duty to take steps clearly imposes on States parties an obligation to adopt a national strategy or plan of action to realize the right to water. The strategy must:

- (a) be based upon human rights law and principles;
- (b) cover all aspects of the right to water and the corresponding obligations of States parties;
- (c) define clear objectives;
- (d) set targets or goals to be achieved and the time-frame for their achievement;
- (e) formulate adequate policies and corresponding benchmarks and indicators.

The strategy should also establish institutional responsibility for the process; identify resources available to attain the objectives, targets and goals; allocate resources appropriately according to institutional responsibility; and establish accountability mechanisms to ensure the implementation of the strategy. When formulating and implementing their right to water national strategies, States parties should avail themselves of technical assistance and cooperation of the United Nations specialized agencies ...”

Para 48: “The formulation and implementation of national water strategies and plans of action should respect, inter alia, the principles of non-discrimination and people’s participation. The right of individuals and groups to participate in decision-making processes that may affect their exercise of the right to water must be an integral part of any policy, programme or strategy concerning water. Individuals and groups should be given full and equal access to information concerning water, water services and the environment, held by public authorities or third parties.”



Non-discrimination, public participation and access to information

Para 50: “States parties may find it advantageous to adopt framework legislation to operationalize their right to water strategy. Such legislation should include:

- (a) targets or goals to be attained and the time-frame for their achievement;
- (b) the means by which the purpose could be achieved;
- (c) the intended collaboration with civil society, private sector and international organizations;
- (d) institutional responsibility for the process;
- (e) national mechanisms for its monitoring; and
- (f) remedies and recourse procedures.”

Para 51: “Steps should be taken to ensure there is sufficient coordination between the national ministries, regional and local authorities in order to reconcile water-related policies. Where implementation of the right to water has been delegated to regional or local authorities, the State party still retains the responsibility to comply with its Covenant obligations, and therefore should ensure that these authorities have at their disposal sufficient resources to maintain and extend the necessary water services and facilities. The States parties must further ensure that such authorities do not deny access to services on a discriminatory basis.”

Para 52: “States parties are obliged to monitor effectively the realization of the right to water. In monitoring progress towards the realization of the right to water, States parties should identify the factors and difficulties affecting implementation of their obligations.”

Remedies and accountability

Para 56: “Before any action that interferes with an individual’s right to water is carried out by the State party, or by any other third party, the relevant authorities must ensure that such actions are performed in a manner warranted by law, compatible with the Covenant, and that comprises: (a) opportunity for genuine consultation with those affected; (b) timely and full disclosure of information on the proposed measures; (c) reasonable notice of proposed actions; (d) legal recourse and remedies for those affected; and (e) legal assistance for obtaining legal remedies ... Where such action is based on a person’s failure to pay for water their capacity to pay must be taken into account. Under no circumstances shall an individual be deprived of the minimum essential level of water.”



Of particular relevance for the affordability criterion



International Covenant on Civil and Political Rights (1966)

Reporting and complaints mechanisms through the Human Rights Committee

According to Article 40(1) of the Covenant, States Parties are required to submit reports (usually every four years) on the measures they have adopted which give effect to the rights recognised in the ICCPR, and on the progress made in their implementation of those rights. After examining States Parties reports, the Committee formulates recommendations and shares areas of concerns which are published in the form of “concluding observations”. These have been particularly useful to establish links between access to water and sanitation and particularly four articles of the Covenant identified here.

The Optional Protocol to the ICCPR (1966) provides a mechanism for the Human Rights Committee to receive and evaluate individual complaints on alleged violations of human rights set forth in the Covenant. Although accession to the Protocol is not compulsory, if a State becomes party to the Protocol, any individual under the jurisdiction of that State may file a written complaint with the Human Rights Committee (Article 1 of the Protocol). After considering a case, the Human Rights Committee issues a decision, which becomes part of the Committee’s jurisprudence.

In addition to the Committee’s concluding observations and jurisprudence, its General Comments help demonstrate the interrelation between the HRWS and certain ICCPR rights.



Right to life - Article 6(1):

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

As interpreted by the Human Rights Committee

General Comment No. 6 on Article 6 (Right to Life)⁷

Para 5: "... The expression "inherent right to life" cannot properly be understood in a restrictive manner, and the protection of this right requires that States adopt positive measures. In this connection, the Committee considers that it would be desirable for States parties to take all possible measures to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics."

Concluding observations - CCPR/C/ISR/CO/3 - 3 September 2010

18. "The Committee is concerned at water shortages disproportionately affecting the Palestinian population of the West Bank, due to prevention of construction and maintenance of water and sanitation infrastructure, as well as the prohibition of construction of wells. The Committee is further concerned at allegations of pollution by sewage water of Palestinian land, including from settlements (arts. 6 and 26)⁸.

The State party should ensure that all residents of the West Bank have equal access to water, in accordance with the World Health Organization quality and quantity standards. The State party should allow the construction of water and sanitation infrastructure, and wells. Furthermore, the State party should address the issue of sewage and waste water in the occupied territories emanating from Israel."



Torture and degrading treatment - Article 7:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. ...

As interpreted by the Human Rights Committee

Concluding observations - CCPR/C/HND/CO/1 - 13 December 2006

15. "The Committee is concerned about prison conditions in the State party, namely, overcrowding, unsatisfactory conditions of imprisonment, including at times a lack of drinking water or sanitation, the failure to separate accused persons from convicts and the practice of keeping prisoners in isolation for prolonged periods. It is also concerned at the ease with which prisoners can obtain firearms and drugs. The situation of juveniles deprived of their liberty gives particular cause for concern (articles 7 and 10 of the Covenant).

The State party should improve prison conditions in order to bring them into line with the provisions of article 10 of the Covenant. It should also ensure the application of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations."

Concluding observations - CCPR/C/YEM/CO/5 - 23 April 2012

12. "The Committee is concerned about reports of long-standing discrimination and marginalization of some minority groups such as the Al Akhdam community, 80 per cent of which is illiterate and which suffers from extreme poverty, and has inadequate access to health care, water and other basic services. The Committee is particularly concerned that in the context of the 2011 unrest, the Al Akhdam community has suffered from acts of aggression and intimidation, which have allegedly not led to any investigation and prosecution so far (arts. 2, 7 and 26).

7 The Human rights Committee finalised, on July 2017, the draft version of a new document that will substitute General Comment 6. Concerning the rights to water and sanitation, paragraph 30 of the Committee's draft General Comment No. 36 emphasizes that the duty to protect life includes the obligation to take appropriate measures to address the general conditions that may lead to threats to life or limit individuals from enjoying their life with dignity. To be effective, these measures should make sure individuals have access to essential goods and services, such as food, water and sanitation.

8 Article 26 is on prohibition against discrimination.

The State party should ensure that all members of ethnic, religious and linguistic minorities enjoy effective protection from discrimination and are able to enjoy their own culture and equally to access education, health and public services. Victims of discrimination should be provided with effective remedies, including compensation.”

Concluding observations - CCPR/C/THA/CO/2 - 25 April 2017

33. “The Committee remains concerned about the high levels of overcrowding and poor conditions in many places of detention, including poor sanitation and hygiene conditions, ... lack of adequate food and water ... (arts. 7 and 10).”

Individual complaint - Communication No. 1890/2009

6.2. “The Committee notes the author’s allegations under article 7 that from 23 to 25 April 2002, he was ill-treated in the premises of the national intelligence ... during the six months that he was detained at the premises of the national intelligence services in Kinshasa, he was subjected to various brutal forms of torture. It also notes that he was deprived of food and water and that he did not have any contact with his family...”

Individual complaint - Communication No. 2073/2011

10. “On 9 May 2012, the Human Rights Committee, acting through its Special Rapporteur on new communications and interim measures, reiterated its request for interim measures of protection. The State party was informed that, while the authors have not been forcibly evicted, cutting off the water supply to the Dobri Jeliaskov community could be considered as indirect means of achieving eviction. The State party was consequently requested to re-establish water supply to the Dobri Jeliaskov community.”

Although water and sanitation were not directly addressed by the Committee in Communication No. 2073/2011, it is of relevance to note the request for interim measures of protection to ensure water supply to the Dobri Jeliaskov community.



Dignity for persons deprived of liberty - Article 10(1):

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

As interpreted by the Human Rights Committee

Water and sanitation have been addressed by the Human Rights Committee in the context of Article 10 as part of conditions in prisons and detention centres, which, together with other conditions, amounted to the violation of this article. For related examples, see also the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, at the end of this section. Article 7 is often seen as complementary to article 10 and consequently, interpreted similarly.⁹ However, the importance of differentiating what constitutes a violation of each of these articles, rather than applying them together, has been raised by various authors.

Concluding observations - CCPR/C/BGR/CO/3 - 19 August 2011

18. “The Committee remains concerned at the overcrowding of prisons and at the sanitary conditions of detention facilities, including the lack of access to drinking water, and regular water and electricity cuts. ... (art. 10).

The State party should guarantee full respect for the Standard Minimum Rules for the Treatment of Prisoners and implement its projects for the construction of new prisons. ...”

9 See for example the following extracts: CCPR/C/THA/CO/2 (25 April 2017), CCPR/C/HND/CO/1 (13 December 2006) and Human Rights Committee Communication No. 253/1987.

Concluding observations - CCPR/C/PRY/CO/3 - 29 April 2013

21. "... The State party should improve conditions in prisons and detention centres, in accordance with the provisions of the Covenant and the Standard Minimum Rules for the Treatment of Prisoners. In particular, the State party should bring youth custodial facilities up to international standards, particularly in terms of ... sanitation, ... access to water and suitable basic washrooms..."

Individual complaint - Communication No. 253/1987

5.7. "... The provision of basic sanitary facilities to detained persons equally falls within the ambit of article 10. The Committee further considers that the provision of inadequate food to detained individuals and the total absence of recreational facilities does not, save under exceptional circumstances, meet the requirements of article 10. In the author's case, the State party has not refuted the author's allegation that he has contracted health problems as a result of a lack of basic medical care, and that he is only allowed out of his cell for 30 minutes each day. As a result, his right under article 10, paragraph 1, of the Covenant has been violated."

Individual complaint - Communication No. 1096/2002

7.8. "... In the absence of any explanation from the State party, due weight must be given to the author's allegations according to which her son's cell has no water, With reference to the United Nations Standard Minimum Rules for the Treatment of Prisoners, the Committee finds, that the conditions as described amount to a violation of article 10, paragraph 1, in respect of the author's son."

8. "The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it disclose a violation of the rights of Mr. Kurbanov under article 7, article 9, paragraphs 2 and 3, article 10, article 14, paragraph 1 and paragraph 3 (a) and (g), and of article 6 of the Covenant."

Individual complaint - Communication No. 1761/2008

7.3. "The Committee further took note of the author's claim that his conditions of detention amounted to cruel, inhumane or degrading treatment. The author was detained in a dark and filthy cell of 3 by 4 meters, drinking water was rationed, there was no water for the toilets, and he could only bathe twice during his detention. He was handcuffed and blindfolded for 10 months out of his 13 month-detention. ..."

8. "The Human Rights Committee, ... is of the view that the facts before it disclose a violation of articles 7; 9 and 10, paragraph 1, read in conjunction with article 2, paragraph 3 of the Covenant vis a vis the author. ..."

**Right to culture, religion and language - Article 27:**

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

As interpreted by the Human Rights Committee

Individual complaint - Communication No. 1457/2006

7.2. "... Certain of the aspects of the rights of individuals protected under that article [article 27] - for example, to enjoy a particular culture - may consist in a way of life which is closely associated with territory and use of its resources. ... This general comment also points out, with regard to the exercise of the cultural rights protected under article 27, that culture manifests itself in many forms, including a particular way of life associated with the use of land resources, especially in the case of indigenous peoples. ..."

7.4. "... The Committee also points out that measures whose impact amounts to a denial of the right of a community to enjoy its own culture are incompatible with article 27, whereas measures with only a limited impact on the way of life and livelihood of persons belonging to that community would not necessarily amount to a denial of the rights under article 27."

7.5. "In the present case, the question is whether the consequences of the water diversion authorized by the State party as far as llama-raising is concerned are such as to have a substantive negative impact on the author's enjoyment of her right to enjoy the cultural life of the community to which she belongs. In this connection the Committee takes note of the

author's allegations that thousands of head of livestock died because of the degradation of 10,000 hectares of Aymara pasture land - degradation caused as a direct result of the implementation of the Special Tacna Project during the 1990s - and that it has ruined her way of life and the economy of the community, forcing its members to abandon their land and their traditional economic activity. The Committee observes that those statements have not been challenged by the State party, which has done no more than justify the alleged legality of the construction of the Special Tacna Project wells."

7.7. "... The Committee therefore considers that the State's action has substantively compromised the way of life and culture of the author, as a member of her community. The Committee concludes that the activities carried out by the State party violate the right of the author to enjoy her own culture together with the other members of her group, in accordance with article 27 of the Covenant."



Convention on the Elimination of All Forms of Discrimination against Women (1979)

Reporting and complaints mechanisms under the Committee on the Elimination of All Forms of Discrimination against Women

As is the case in other treaties, the complaints mechanism for this Convention is contained in the 1999 Optional Protocol to the CEDAW. States Parties to the Protocol recognise the competence of the Committee on the Elimination of Discrimination against Women to receive complaints from individuals under their jurisprudence who claim violations of their rights have occurred (Article 1 of the Protocol). One example addressing sanitation has been identified in this section.

States Parties to Convention are further to submit a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the Convention and on the progress made in this respect (Article 18). The Committee on the Elimination against Women considers such reports, which are to be submitted every four years, and subsequently issues concluding recommendations.¹⁰ These, together with the Committee's General Recommendations, provide key paragraphs on the linkages between CEDAW Articles and the HRWS.



Definition of discrimination - Article 1:

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

10 This section includes examples from concluding observations issues by the Committee. For more examples and for an analysis on how the Committee has discussed the HRWS throughout its concluding observations, see A. Hellum, "Engendering the Right to Water and Sanitation" in Langford and Russell (eds.), *The Human Right to Water*, Cambridge University Press: 2017.



Policy measures - Article 2:

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; ...

As interpreted by the Committee on the Elimination of Discrimination against Women

General Recommendation No. 26 on woman migrant workers

Para 17: “Where accommodation is provided, especially in female-dominated occupations such as factory, farm or domestic work, living conditions may be poor and overcrowded, without running water or adequate sanitary facilities, or they may lack privacy and hygiene.”

General Recommendation No. 28 on the core obligations of States parties under article 2

Para 13: “Article 2 is not limited to the prohibition of discrimination against women caused directly or indirectly by States parties. Article 2 also imposes a due diligence obligation on States parties to prevent discrimination by private actors. In some cases, a private actor’s acts or omission of acts may be attributed to the State under international law. States parties are thus obliged to ensure that private actors do not engage in discrimination against women as defined in the Convention. The appropriate measures that States parties are obliged to take include the regulation of the activities of private actors with regard to education, employment and health policies and practices, working conditions and work standards, and other areas in which private actors provide services or facilities, such as banking and housing.”

Concluding observations - CEDAW/C/SLB/CO/1-3 - 14 November 2014¹¹

“Women with disabilities

43. The Committee calls upon the State party to adopt comprehensive policies and programmes to protect the rights of women and girls with disabilities, ensuring their right to inclusive education and their equal access to employment, health care, housing, safe drinking water, sanitation and other services, and to promote their autonomy and access to community services. It also calls upon the State party to develop partnerships with civil society and community-based organizations and international stakeholders to identify women and girls with disabilities in the State party who are facing discrimination based on their disability or other grounds, as well as isolation, confinement and different forms of physical and psychological violence.”



Sex role stereotyping and prejudice - Article 5(a):

States Parties shall take all appropriate measures: To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

As interpreted by the Committee on the Elimination of Discrimination against Women

General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations

“Gender-based violence

Para 34. Conflict-related violence happens everywhere, such as in homes, detention facilities and camps for internally displaced women and refugees; it happens at any time, for instance, while performing daily activities such as collecting water and firewood or going to school or work.”

11 For examples from the same document on health and rural women, see Articles 12 and 14.

Individual complaint - Communication No. 23/2009

2.4. "... [in the detention facility] the guards were in a position to watch her through the door peephole in the course of private activities, such as using the toilet, which was located inside the cell and was blocked from view only one side by a screen ... which did not obstruct the view of the toilet from the door... The Committee recalls that respect for women prisoners' privacy and dignity must be a high priority for the prison staff. The Committee considers that the disrespectful treatment of the author by the State agents, namely male prison staff, including inappropriate touching and unjustified interference with her privacy constitutes sexual harassment and discrimination within the meaning of article 1 and 5 (a) of the Convention and its general recommendation No. 19 (1992). ... Therefore, the Committee concludes that the State party failed to meet its obligations under article 2 and 5 (a) of the Convention."



The Committee also referred to the Standard Minimum Rules for the Treatment of Prisoners, identified in chapter 2.



Health - Article 12:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning. ...

As interpreted by the Committee on the Elimination of Discrimination against Women

General Recommendation No. 24 on women and health

Para 12: "States parties should report on their understanding of how policies and measures on health care address the health rights of women from the perspective of women's needs and interests and how it addresses distinctive features and factors that differ for women in comparison to men, such as: (a) Biological factors that differ for women in comparison with men, such as their menstrual cycle,"

Para 28: "When reporting on measures taken to comply with article 12, States parties are urged to recognize its interconnection with other articles in the Convention that have a bearing on women's health. Those articles include ... article 14 (2) ... (h) which obliges States parties to take all appropriate measures to ensure adequate living conditions, particularly ... sanitation ... water supply, all of which are critical for the prevention of disease and the promotion of good health care."

Concluding observations - CEDAW/C/SLB/CO/1-3 - 14 November 2014¹²

"Health

36. The Committee notes with concern: ... (c) The low community awareness of the linkages between safe drinking water, proper sanitation and hygienic practices, leading to high rates of diarrhoea, intestinal worm infestation and a high rate of stunting and underweight among children; ...

37. In line with general recommendation No. 24 on women and health, the Committee recommends that the State party: ... (c) Take measures to improve access to safe water and proper sanitation in order to reduce the high rate of waterborne diseases; ..."



Rural women - Article 14(2):

States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular shall ensure to such women the right:

- (a) participation in the elaboration and implementation of development planning at all levels; ...**
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;**
- (h) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.**

¹² See extracts on rural women and women with disabilities, from the same document with respect to Art. 14.

1

General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations

Access to education, employment and health, and rural women

Para 51: “Women in rural areas are often disproportionately affected by the lack of adequate health and social services and inequitable access to land and natural resources. Similarly, their situation in conflict settings presents particular challenges with regard to their employment and reintegration, given that it is often exacerbated by the breakdown of services, resulting in ... lack of access to water...”

2

3

Concluding observations - CEDAW/C/IDN/CO/6-7 - 7 August 2012¹³

“Violence against women in conflict

28. The Committee urges the State party:

e) To ensure the security of internally displaced women and to allocate adequate resources to meet their needs, in particular their access to a livelihood, water and education for themselves and their children;”

4

“Women facing multiple forms of discriminations

45. The Committee is deeply concerned about:

... (b) Cases of discrimination, violence and sexual intimidation specifically targeting women who belong to religious minorities, such as Ahmaddiyah, Christians, Buddhists and Baha’is, as well as indigenous women; and cases of violation of the rights of indigenous women to access their land, water and natural resources; ...

5

46. The Committee urges the State party to: a) Pay special attention to the needs of rural women to ensure that they have access to health, education, clean water, sanitation services and income-generating projects; and eliminate discrimination in women’s ownership and inheritance of land;”

6

Concluding observations - CEDAW/C/LKA/CO/7 - 8 April 2011

“Impact of conflict on women

40. ... The Committee is also deeply concerned about reports on the inadequate infrastructure and the limited availability of basic services such as ... water and sanitation. ...

7

41. The Committee urges the State party to: ... (d) Provide adequate infrastructure for women IDPs and returnees especially ... water and sanitation;”

8

General Recommendation No. 34 on the rights of rural women

OVERARCHING STATE PARTY OBLIGATIONS TO RESPECT, PROTECT AND FULFIL THE RIGHTS OF RURAL WOMEN

Para 11: “... macroeconomic policies, including trade, fiscal and investment policies, as well bilateral and multilateral agreements, ... should address the negative and differential impacts of economic policies, including ... privatization and the commodification of ... water ... on the lives of rural women and the fulfilment of their rights”

9

Para 12: “States parties should address specific threats posed to rural women by climate change, natural disasters, land and soil degradation, water pollution, droughts, floods, desertification, pesticides and agrochemicals, extractive industries, monocultures, biopiracy and the loss of biodiversity, in particular agro-biodiversity. They should alleviate and mitigate those threats and ensure that rural women enjoy a safe, clean and healthy environment. They should effectively address the impact of such risks on rural women in the planning and implementation of all policies concerning the environment, climate change, disaster risk reduction, preparedness and management and ensure the full participation of rural women in designing, planning and implementing such policies. States parties should also ensure the protection and security of rural women and girls in all phases of disasters and other crises, ranging from early warning to relief, recovery, rehabilitation and reconstruction.”

Para 14: “Discrimination may be compounded in rural areas by a lack of appropriate access to, inter alia, water, sanitation,”

13 See also: CEDAW/C/SUR/CO/3 (2007), para 32); CEDAW/C/PHI/CO/6 (2006), para 30(r)); CEDAW/C/MOZ/CO/2 (2007), para 41(r)); CEDAW/C/MLI/CO/5 (2006), para 36(r)); CEDAW/C/MNG/CO/7 (2008), para 35(c).

Para 15: “States parties should eliminate all forms of discrimination against disadvantaged and marginalized groups of rural women. For example, States parties should ensure that disadvantaged and marginalized groups of rural women, including those belonging to indigenous, Afro-descendent, ethnic and religious minorities, heads of household, peasants, pastoralists, fisherfolk, landless women, migrants and conflict-affected rural women, are protected from intersecting forms of discrimination and have access to ... water and sanitation ... States parties should develop policies and programmes ensuring the equal enjoyment of rights by rural women with disabilities, ...”

Para 23: “[States parties] should eliminate discriminatory stereotypes, including those that compromise the equal rights of rural women to land, water and other natural resources. In this regard, States parties should adopt a range of measures, including outreach and support programmes, awareness-raising and media campaigns, in collaboration with traditional leaders and civil society, to eliminate harmful practices and stereotypes.”

STATE PARTY OBLIGATIONS IN RELATION TO SPECIFIC DIMENSIONS OF THE RIGHTS OF RURAL WOMEN

Health care services

Para 39: “States parties should safeguard the right of rural women and girls to adequate health care, and ensure: ... (d) The systematic and regular monitoring of the health and nutritional status of pregnant women and new mothers, especially adolescent mothers, and their infants. In case of malnutrition or lack of access to clean water, extra food rations and drinking water should be provided systematically throughout pregnancy and lactation; (e) That rural health-care facilities have adequate water and sanitation services;”

Education

Para 42: “Worldwide, rural women and girls have lower levels of literacy and are disadvantaged when it comes to access to education and training. ... [The] school attendance [of rural girls] is also often curtailed by chores, such as domestic and care work, including ... fetching water and firewood, the long distances to travel to school and the lack of adequate water, toilet facilities and sanitation in schools, which fail to meet the needs of menstruating girls.”

Para 43: “States parties should protect the right of rural girls and women to education, and ensure that: ... (h) Schools in rural areas have adequate water facilities and separate, safe, sheltered latrines for girls and offer hygiene education and resources for menstrual hygiene, with special focus on girls with disabilities”

Political and public life

Para 53: “Rural women have a right to participate in decision-making at all levels and in community-level discussions with high authorities, yet they are inadequately represented as elected officials, as civil servants, in rural extension and water, forestry or fishery services, in cooperatives and in community or elders’ councils. Their limited participation may be due to a ... lack of time owing to ... the task of fetching water and other responsibilities ...”

Para 54: “To ensure the active, free, effective, meaningful and informed participation of rural women in political and public life, and at all levels of decision-making, States parties should implement general recommendations Nos. 23 and 25, and specifically: (a) Establish quotas and targets for rural women’s representation in decision-making positions, specifically in parliaments and governance bodies at all levels, including in ... water governance bodies, as well as natural resource management. In this regard, clear objectives and time frames should be in place to reach substantive equality of women and men; ... (d) Ensure the participation of rural women in the development and implementation of all agricultural and rural development strategies, and that they are able to participate effectively in planning and decision-making relating to rural infrastructure and services, including water, sanitation”

Land and natural resources

Para 58: “States parties should raise awareness about rural women’s rights to land, water, and other natural resources ...”

Para 59: “States parties should ensure that legislation guarantees rural women’s rights to land, water and other natural resources on an equal basis with men, irrespective of their civil and marital status or of a male guardian or guarantor, and that they have full legal capacity. They should ensure that indigenous women in rural areas have equal access with indigenous men to ownership and possession of and control over land, water ... and other resources that they have traditionally owned, occupied or otherwise used or acquired, including by protecting them against discrimination and dispossession. In addition, States parties should: ... (c) Strengthen customary and statutory institutions and mechanisms for defending or protecting women’s rights to land, water and other natural resources, including community paralegal services.”

Adequate living conditions

Water, sanitation and energy

Paras 81-83: “The rights of rural women and girls to water and sanitation are not only essential rights in themselves but also key to the realization of a wide range of other rights, including rights to health, food, education and participation. Rural women and girls are among those most affected by water scarcity; a situation that is aggravated by unequal access to natural resources and the lack of infrastructure and services. Rural women and girls are frequently obliged to walk long distances to fetch water, sometimes exposing them to a heightened risk of sexual violence and attacks. Owing to poor rural infrastructure and services in many regions, rural women often spend four to five hours per day (or more) collecting water from sometimes poor-quality sources, carrying heavy containers and suffering acute physical problems, as well as facing illnesses caused by the use of unsafe water. Various forms of low-cost and effective technology exist that could ease the burden, including well-drilling technology, water extraction systems, wastewater reuse technology, labour-saving irrigation technology, rain-harvesting and household water treatment and purification systems. In the absence of toilets or latrines, rural women and girls must also walk long distances in search of privacy. The lack of adequate sanitation also increases their risk of ill health. To remedy this situation, rural women and girls must have physical and economic access to sanitation that is safe, hygienic, secure and socially and culturally acceptable.”

Para 85: “States parties should ensure that rural women have access to essential services and public goods, including:(a) Sufficient, safe, acceptable and physically accessible and affordable water for personal and domestic uses and irrigation; (b) Adequate sanitation and hygiene, enabling women and girls to manage their menstrual hygiene and have access to sanitary pads;”

General Recommendation No. 27 on older women

Para 24: “Denial of their right to water, food and housing is part of the everyday life of many poor, rural older women.”

Paras 49-50: “States parties should ensure that older women are included and represented in rural and urban development planning processes. States parties should ensure the provision of affordable water, electricity and other utilities to older women. Policies aimed at increasing access to safe water and adequate sanitation should ensure that the related technologies are accessible and do not require undue physical strength. States parties should adopt appropriate gender- and age-sensitive laws and policies to ensure the protection of older women with refugee status or who are stateless, as well as those who are internally displaced or are migrant workers.”

Concluding observations - CEDAW/C/TZA/CO/6 - 16 July 2008

“Rural women

44. The Committee calls upon the State party to take the necessary measures to increase and strengthen the participation of women in designing and implementing local development plans, and pay special attention to the needs of rural women, particularly women heads of household, by ensuring that they participate in decision-making processes and have improved access to health, education, clean water and sanitation services, fertile land and income-generation projects. The Committee urges the State party to take appropriate measures to eliminate all forms of discrimination against rural women with respect to ownership of land ...”

Concluding observations - CEDAW/C/MNG/CO/7 - 7 November 2008

“Rural women

36. The Committee urges the State party to pay special attention to the needs of rural women by implementing an integrated rural development policy, ensuring that rural women participate fully in decision-making processes, in particular, on environmental issues, and have access to health, clean water and sanitation services, without discrimination. The Committee requests the State party to include in its next report sex-disaggregated data and information on the de facto position of rural women.”

Concluding observations - CEDAW/C/IND/CO/SP.1 - 3 November 2010

35. “The Committee urges the State party: ... b) To take all necessary measures to ensure that the internally displaced families living in all colonies have access to public services, such as safe drinking water, ... that all colonies are equipped with a clean water supply, ... and sanitation facilities and that a plan is created for guaranteeing the right to education, health and employment for women and children in all colonies”

Concluding observations - CEDAW/C/CRI/CO/5-6 - 29 July 2011

“Rural women

35. The Committee calls upon the State party to take the necessary measures to increase and strengthen the participation of women in designing and implementing local development plans and to pay special attention to the needs of rural women, in particular women heads of household, by ensuring that they participate in decision-making processes and have improved access to health, education, clean water and sanitation services, fertile land and income generation projects.”

Concluding observations - CEDAW/C/GNQ/CO/6 - 9 November 2012

“Rural Women

40. The Committee calls upon the State party to: (a) Formulate and implement specific measures and strategies to combat women’s poverty, including effective measures to ensure rural women’s access to justice, health-care services, education, housing, clean water and sanitation, fertile land and income-generating projects;”

Concluding observations - CEDAW/C/SLB/CO/1-3 - 14 November 2014¹⁴

“Rural women

38. While noting that the State party’s poverty reduction strategy has a strong focus on rural women, who account for 81 per cent of all women in the State party, the Committee is nevertheless concerned about:

(a) Rural women’s limited access to education, health care, safe drinking water, adequate sanitation, employment, social security, formal credit and loans and the formal justice system...

39. The Committee recommends that the State party:

(a) Adopt indicators for monitoring the progress achieved in enhancing rural women’s access to education, health care, safe drinking water, adequate sanitation, employment, social security, formal credit and loans and the formal justice system ...”

14 CEDAW/C/SLB/CO/1-3 – 14 November 2014 is cited in other parts of this section on the CEDAW due to its relevance on different issues like disabilities and health. See Arts. 2 and 14.



Convention on the Rights of the Child (1989)

Reporting and complaints mechanisms through the Committee on the Rights of the Child

Under Article 44(1) of the Convention on the Rights of the Child (CRC), the Committee on the Rights of the Child receives reports from States Parties on the measures they have adopted to give effect to the rights recognised in this Convention, and on the progress made on the enjoyment of those rights, including Article 24, which explicitly mentions access to water and sanitation. The reports are to be submitted every five years to the Committee.

The complaints mechanism for the CRC was created through the Third Optional Protocol to the CRC, which was adopted in 2011 and entered into force in 2014. The Committee on the Rights of the Child can receive complaints from persons within the jurisdiction of States that have become Party to the Optional Protocol (Article 5). As of October 2017, 35 States are Party to the Protocol. To date no complaints of particular relevance for the HRWS have been considered by the Committee.

The Committee also issues General Comments clarifying the normative content of the rights enshrined in the Convention.



Protection of rights - Article 4:

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

As interpreted by the Committee on the Rights of the Child

Concluding observations - CRC/C/BRA/CO/2-4 - 30 October 2015

21. "The Committee takes note of Act No. 11.265 of 2006, which regulates food industry advertising and marketing practices as regards children. However, the Committee is deeply concerned that activities of the mining and construction sectors, as well as of agribusinesses, food corporations and large-scale sporting and/or entertainment events, frequently results in the resettlement of communities without compensation or appropriate services, the contamination of water resources and food, unhealthy diets due to misleading advertisements, and environmental degradation. The Committee is also concerned about the lack of regulatory frameworks covering the social and environmental responsibility of business corporations and industries."

22. "In the light of its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights, the Committee recommends that the State party: (a) Establish a regulatory framework to deal with the impact of the business sector on children's rights, particularly that of the mining and construction sectors, agribusinesses and food enterprises, and that of large-scale sporting or entertainment events, operating in the State party, to ensure that their activities do not negatively affect human rights or endanger environmental or other standards, especially those relating to children's rights; ..."



Children with disabilities - Article 23(1):

States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

As interpreted by the Committee on the Rights of the Child

General Comment No. 4 on adolescent health and development

Para 35: "In accordance with article 23 of the Convention, adolescents with mental and/or physical disabilities have an equal right to the highest attainable standard of physical and mental health. States parties have an obligation to provide adolescents with disabilities with the means necessary to realize their rights. States parties should (a) ensure that health facilities, goods and services are available and accessible to all adolescents with disabilities and that these facilities and services promote their self-reliance and their active participation in the community"



Health and health services - Article 24:

(1) States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

(2) States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: ...

(c) To combat disease and malnutrition, ... through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution; ...

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents; ...



Explicit mention of access to clean drinking water, hygiene and environmental sanitation

As interpreted by the Committee on the Rights of the Child

General Comment No. 7 (2005) on child's rights in early childhood

Para 27: "States parties should ensure that all children have access to the highest attainable standard of health care and nutrition during their early years, in order to reduce infant mortality and enable children to enjoy a healthy start in life (art. 24). In particular: (a) States parties have a responsibility to ensure access to clean drinking water, adequate sanitation, ... which are essential for young children's health ... (b) States parties have a responsibility to implement children's right to health by encouraging education in child health and development, including about the advantages of breastfeeding, nutrition, hygiene and sanitation"

Committee on the Rights of the Child, Annex to the General Guidelines Regarding the Form and Contents of Periodic Reports to be submitted by States Parties under Article 44, Paragraph 1 (b), of the Convention

"Health and health services (art. 24)

17. States parties should provide data disaggregated ... on the: ... (d) Percentage of households without access to hygienic sanitation facilities and access to safe drinking water;"

Concluding observations - CRC/C/BRA/CO/2-4 - 30 October 2015

55. "... the Committee is concerned that indigenous children, particularly Guarani children, continue to have inadequate access to medical services and sanitation, in overcrowded settlements, and continue to be subjected to contaminated water and food."

56. "The Committee urges the State party to: ... (c) allocate adequate human, technical and financial resources to the Nutritional Supervision System (SISVAN) in order to ensure that children affected by malnutrition receive adequate food and safe drinking water."

66. "The Committee recommends that the State party: ...

(b) Improve water supply infrastructure and guarantee access to safe drinking water, particularly for communities living adjacent to contaminated water canals used for the irrigation of farms;

(c) Expediently end illegal mining activities, particularly in the Tapajós-Xingu area, and design and implement measures to mitigate the negative effects of these activities and those related to the construction of the Belo Monte dam on the rights of indigenous children and their families;

(d) Undertake awareness-raising programmes for communities living in affected areas to minimize the risks of being exposed to contaminated water and food, and for users of such agrochemicals;

(e) Conduct a comprehensive assessment of the effects of polluted air, water and soil on children's health and use it as a basis for developing and implementing a strategy to remedy the situation, and monitor the levels of air, water and soil pollutants and of pesticide residues in the food chain."



Adequate standard of living - Article 27:

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing. ...

As interpreted by the Committee on the Rights of the Child

Concluding observations - CRC/C/KAZ/CO/3 - 19 June 2007

"The Committee notes that the per capita income has remarkably increased over the last decade, however it remains concerned about the discrepancy between the steadily growing GDP and the low standard of living of a large section of the population, including many children and their families, ... The Committee is further concerned that adequate housing remains a problem for many families and for children after they have left homes and that access to clean drinking water and sanitation is not ensured in all regions of the country.

In accordance with article 27 of the Convention, the Committee recommends that the State party: ... Ensure access to clean drinking water and sanitation in all regions of the country."

Concluding observations - CRC/C/SDN/CO/3-4 - 22 October 2010

53: "... The Committee recommends that the State party:

(a) Ensure that all children, especially those in the most severely affected regions of Southern Sudan and Darfur, have access to primary health care;

(b) Focus its efforts on developing and implementing a national policy to ensure an integrated and multidimensional approach to early childhood development, paying particular attention to the treatment of preventable diseases, malnutrition and the provision of potable water ..."

60. "The Committee expresses its concern that the vast majority of the Sudanese population, particularly in remote and rural areas, do not have ready access to potable water or adequate sanitation facilities. The Committee is particularly concerned at reports that up to 40% of primary schools in Northern Sudan lack water and sanitation facilities. The Committee is concerned that the living conditions of children and their families in situations of extreme poverty massively impede the holistic development of children's capacities, as set out in article 27, paragraph 2, of the Convention."

61. "The Committee recommends that the State party take effective measures to ensure the ready availability of safe drinking water and access to adequate sanitation facilities, particularly in remote and rural areas. The Committee also recommends that the State party establish targeted programmes to promote children's development, particularly addressing those living in impoverished circumstances, through their early years."

Concluding observations - CRC/C/BRA/CO/2-4 - 30 October 2015

70. "The Committee urges the State party to further strengthen its efforts to reduce poverty among children in vulnerable situations, including indigenous children and children living in rural areas. It also recommends that the State party take into consideration recommendations made by the Special Rapporteur on the human right to safe drinking water and sanitation (see A/HRC/27/55/Add.1) and increase investment in water supply and sanitation infrastructure in marginalized urban areas, including favelas, and in rural areas. In doing so, the State party should:

- (a) Consider amending its Constitution to include the right to water and sanitation;
- (b) Establish a mandatory fair affordability standard for water and sanitation services and regulate subsidy policy by law, with clear criteria and responsibilities for granting subsidies to low-income individuals."

Concluding observations - CRC/C/GEO/CO/4 - 9 March 2017

35. "While noting the monetary and social support provided to families living in poverty, the Committee draws attention to target 1.3 of the Sustainable Development Goals on implementing nationally appropriate social protection systems and measures for all and reiterates its previous recommendation (see CRC/C/GEO/CO/3, para. 54) that the State party:

- (a) Take steps to improve the standard of living of children as a matter of priority, paying particular attention to housing, water and sanitation;
- (b) Allocate sufficient funds to counteract persistent inequality, effectively reduce the disparities and improve the extremely low standard of living of, inter alia, families with several children, refugee and internally displaced families and families living in rural and remote areas;
- (c) Make increased access to basic services a priority target, including clean running water and sewerage disposal;"

**Right to education - Articles 28:**

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity ...

**Goals of education - Article 29(1):**

States Parties agree that the education of the child shall be directed to: (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential; (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; ... (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin; (e) The development of respect for the natural environment.

As interpreted by the Committee on the Rights of the Child

General Comment No. 4 on adolescent health and development (2003)

Para 13: "... Considering the importance of appropriate education for the current and future health and development of adolescents, as well as for their children, the Committee urges States parties, in line with articles 28 and 29 of the Convention to ... (b) provide well-functioning school and recreational facilities which do not pose health risks to students, including water and sanitation and safe journeys to school; ..."

General Comment No. 11 on Indigenous children and their rights (2009)

Para 25: "States parties are urged to consider the application of special measures in order to ensure that indigenous children have access to culturally appropriate services in the areas of health, nutrition, education, recreation and sports, social services, housing, sanitation ..."



Convention on the Rights of Persons with Disabilities (2006)

Reporting and complaints mechanisms through the Committee on the Rights of Persons with Disabilities

According to Article 35 of the Convention on the Rights of Person with Disabilities (CRPD), every four years States Parties are required to submit to the Committee on the Rights of Persons with Disabilities a comprehensive report on measures taken to give effect to their obligations under the Convention and on the progress made in that regard.

Since the adoption of the Optional Protocol to the CRPD, the Committee is also competent to receive and consider communications from individuals who claim to be victims of a violation of the human rights set out in the Convention. The eligible complaints must be submitted by individuals subject to the jurisdiction of a State that has ratified the Optional Protocol. As of publishing, no relevant complaint concerning the rights to water and sanitation was issued. However, a few relevant General Comments and concluding observations have been identified below.



Adequate standard of living and social protection - Article 28:

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.

2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures: (a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs; ...



Explicit mention of access to clean water services

As interpreted by the Committee on the Rights of Persons with Disabilities

Concluding observations - CRPD/C/SLV/CO/1 - 8 October 2013¹⁵

57. "Adequate standard of living and social protection (art. 28)

The Committee notes that social protection measures mainly protect persons whose disabilities result from the armed conflict, and that the State does not have strategies for fulfilling the various aspects of the right to an adequate standard of living and social protection, such as ... drinking water The Committee is concerned that persons with disabilities ... those living in rural and remote areas cannot access certain basic services, such as drinking water and sanitation, and that plans to provide water do not take their needs into account."

58. "... The Committee urges the State party to adopt, through consultation with organizations of persons with disabilities, measures for the elimination of barriers to the access of such persons to basic services, drinking water and sanitation in rural and remote areas, and to include the organizations in monitoring their implementation."

¹⁵ For other examples of concluding observations citing Art. 28, see: CRPD/C/GTM/CO/1 and CRPD/C/MEX/CO/1.



Equality and non-discrimination - Article 5:

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

As interpreted by the Committee on the Rights of Persons with Disabilities

Concluding observations - CRPD/C/CAN/CO/1- 8 May 2017

"Equality and non-discrimination (art. 5)

13: The Committee is concerned about: (a) The persisting gaps in the exercise and enjoyment of rights by persons with disabilities, such as ... an adequate standard of living, including due to lack of ... access to water and sanitation"



Accessibility - Article 9:

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia: (a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces; ...
2. States Parties shall also take appropriate measures to:
 - (a) Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
 - (b) Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities ...

As interpreted by the Committee on the Rights of Persons with Disabilities

General Comment No. 1 on equal recognition before the law

Para 37: "Relationship with other provisions of the Convention – Article 9 - Article 9 requires the identification and elimination of barriers to facilities or services open or provided to the public. ... States parties must review their laws and practices to ensure that the right to legal capacity and accessibility are being realized."

General Comment No. 2 on accessibility

Para 13: "As long as goods, products and services are open or provided to the public, they must be accessible to all, regardless of whether they are owned and/or provided by a public authority or a private enterprise. Persons with disabilities should have equal access to all goods, products and services that are open or provided to the public in a manner that ensures their effective and equal access and respects their dignity."

Para 14: "Barriers to access to existing objects, facilities, goods and services aimed at or open to the public shall be removed gradually in a systematic and, more importantly, continuously monitored manner, with the aim of achieving full accessibility."

General Comment No. 3 on women and girls with disabilities

Para 63b: “Public and private services and facilities used by women with disabilities should be fully accessible in compliance with article 9 of the Convention and the Committee’s general comment No. 2 (2014) on accessibility, and public and private service providers should be trained and educated on applicable human rights standards and on identifying and combating discriminatory norms and values so that they can provide appropriate attention, support and assistance to women with disabilities”.

Concluding observations - CRPD/C/KEN/CO/1 - 30 September 2015

22: “The Committee recommends that the State party: (c) Adopt measures to monitor the situation of persons with disabilities in refugee camps and internally displaced persons with disabilities, and ensure that they are entitled to access all services available, including accessible shelters, water and sanitation, education and health.”

**Situations of risk and humanitarian emergencies - Article 11:**

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

As interpreted by the Committee on the Rights of Persons with Disabilities

General Comment No. 3 on women and girls with disabilities

Para 50: “... the lack of sanitation facilities increases discrimination against women with disabilities, who face a number of barriers to accessing humanitarian aid. ... accessible sanitation facilities to ensure hygienic menstrual management are often unavailable, which can in turn increase women with disabilities’ exposure to violence”

**Equal recognition before the law - Article 12(2):**

States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.

As interpreted by the Committee on the Rights of Persons with Disabilities

General Recommendation No. 1 on equal recognition before the law

Para 37: “Relationship with other provisions of the Convention – Article 9 - Article 9 requires the identification and elimination of barriers to facilities or services open or provided to the public. ... States parties must review their laws and practices to ensure that the right to legal capacity and accessibility are being realized.”

**Freedom from exploitation, violence and abuse - Article 16(1):**

States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects. ...

As interpreted by the Committee on the Rights of Persons with Disabilities

General Comment no. 3 on women and girls with disabilities

Para 31: “Examples of violence, exploitation and/or abuse against women with disabilities that violate article 16 include the following: the refusal by caregivers to assist with daily activities such as ... menstrual and/or sanitation management, ... which hinders enjoyment of the right to live independently and to freedom from degrading treatment; the withholding of food or water, or the threat of doing so;”



Education - Article 24:

1. States Parties recognize the right of persons with disabilities to education. ...

As interpreted by the Committee on the Rights of Persons with Disabilities

General Comment No. 3 on women and girls with disabilities

Para 56: "Harmful gender and disability stereotypes combine to fuel discriminatory attitudes, policies and practices, such as: ... not providing accessible sanitation facilities at schools to ensure hygienic menstrual management."

General Comment No. 4 on the right to inclusive education

Para 22: "... educational institutions and programmes must be accessible to everyone, without discrimination. ... The environment of students with disabilities must be designed to foster inclusion and guarantee their equality throughout their education. For example, ... water and sanitation facilities (including hygiene and toilet facilities) ... should be inclusive, accessible and safe. States parties must commit to the prompt introduction of universal design."



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

Complaints and reporting mechanisms through the Committee against Torture

Contrary to the majority of the international human rights treaties, the Convention against Torture contains an article (Article 22) directly in the main convention that enables States Parties to recognise the competence of the Committee against Torture to consider individual complaints alleging violations of rights set out in this Convention. In addition to the example listed in this section, other individual communications that relate to access to water and sanitation in the context of conditions of detention are found under the ICCPR.

With respect to the reporting mechanism under the Convention, every four years, States Parties must submit to the Committee against Torture, reports on the measures they have taken to give effect to their obligations. Most concluding observations issued by the Committee in relation to water and sanitation issues, concern poor conditions of detention, such as poor sanitation and unacceptable conditions for female detainees (lack of gender sensitive facilities). These conditions have been addressed by the Committee as ill-treatment under Article 16.¹⁶



Prevention of acts of cruel, inhuman or degrading treatment or punishment - Article 16(1):

Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13¹⁷ shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

16 See also CAT/C/CR/33/3 (2004), para 4 (g); and CAT/C/TJK/CO/1 (2006), para 20.

17 Article 10 requires States to ensure that education and information about the prohibition of torture are included in the training of personnel dealing with individuals undergoing any form of detention. Under Article 11, States must systematically review interrogation rules, methods and practice as well as treatment of people under custody in order to prevent torture. As for Article 12, authorities are to conduct prompt and impartial investigation whenever there is suspicion that torture was committed. Under Article 13, individuals that allege being subjected to torture have the right to complain and the claim must be investigated, ensuring the complainant and witnesses are protected.

1

Committee against Torture, Guidelines on the Form and Content of Initial Reports under Article 19 to be Submitted by States Parties to the Convention Against Torture

"Article 16

25. This article imposes upon States the obligation to prohibit acts of cruel, inhuman or degrading treatment or punishment. The report should contain information on: ... Living conditions in police detention centres and prisons, including those for women and minors, including whether they are kept separate from the rest of the male/adult population. Issues related to ... sanitary conditions, ... should, in particular, be addressed."

2

3

Concluding observations - CAT/C/HND/CO/1 - 23 June 2009¹⁹

17. "The Committee is concerned at the poor conditions of detention, including overcrowding, at times lack of drinking water, insufficient provision of food, poor sanitary conditions, as well as the failure to separate accused persons from convicted ones, women from men and children from adults, in rural areas as well as in police holding cells..."

4

Concluding observations - CAT/C/MOZ/CO/1 - 10 December 2013

Conditions of detention in prisons and police stations

15. "... Furthermore, the State party's initial report acknowledges the existence of deficiencies in the prison system, such as dilapidated infrastructure, insufficient water supply and sanitation facilities, the shortage and poor quality of food and the prevalence of infectious diseases (para.140). ...

The State party should continue its efforts to improve prison conditions ... In particular, it should: (a) Take the necessary measures to ensure that the basic needs of persons deprived of their liberty are met with regard to sanitation, medical care, food and water, in accordance with the Standard Minimum Rules for the Treatment of Prisoners; ..."

5

6

Concluding observations - CAT/C/AFG/CO/2 - 12 June 2017

Conditions of detention

29. "While taking note of the State party's challenges regarding the lack of budget and welcoming the Law on Prisons and Detention Centres, the Committee remains deeply concerned about the poor conditions of detention, including severe overcrowding, inadequate sanitation and access to water, food of a sufficient amount and quality and medical services. In that connection, the Committee is particularly concerned by the situation of women in prisons ..."

7

8

30. "The State party should: ... (c) Take effective measures to improve access to drinking water, sanitation facilities and the quality of food, and to ensure that health services and facilities are available to all detainees, in particular in facilities for women and girls;"

9

Individual complaint - Communication No. 372/2009

7.2 "The Committee notes that, according to the complainant, Moroccan gendarmes abandoned him and approximately 40 other undocumented migrants, some of whom were severely injured, in the border area separating Morocco and Mauritania without adequate equipment and with minimal supplies of food and water, and forced them to walk some 50 kilometres through an area containing anti-personnel mines in order to reach the first inhabited areas on the Mauritanian side. The Committee considers that the circumstances of the complainant's expulsion by the State party constitute the infliction of severe physical and mental suffering on the complainant by public officials. They can therefore be considered cruel, inhuman or degrading treatment as defined in article 16 of the Convention."

18 For other examples of concluding observations, see: CAT/C/CR/33/3 (2004), para 4 (g); CAT/C/TJK/CO/1 (2006), at para 20.

19 For similar examples, see: CAT/C/VEN/CO/3-4 (12 December 2014) and CAT/C/BGR/CO/4-5 (14 December 2011).

1.2. WATER AND SANITATION IN THE UNIVERSAL PERIODIC REVIEW

The Universal Periodic Review (UPR) is a process that involves the evaluation of human rights records of all Member States of the United Nations. This is an innovative process, as it aims to assess all countries equally. It guarantees all States the opportunity to be evaluated and to give feedback on measures adopted by other members. The UPR process was established in 2006 by the Human Rights Council and is divided in four year cycles. The third cycle which started in 2017. The first cycle took place between 2008 and 2011 and the second cycle from 2012 to 2016.

This chapter identifies recommendations on water and sanitation issues that were made to States under review during the UPR. The reader may notice there are fewer recommendations on the right to sanitation, but in most cases, the human rights to water and sanitation are addressed together. The recommendations are regrouped accordingly, as well as by geographic region. Different sections, i.e. water and sanitation/water/sanitation, can therefore contain extracts about the same country from the same cycle. In addition, it is interesting to highlight that certain States make recurring recommendations on water and sanitation. In the second cycle for instance, Spain had a very active participation, issuing over twenty per cent of the recommendations addressing water and sanitation, as opposed to only a few in the first cycle. The text boxes contained in this chapter further highlight certain recurrent themes discussed in each geographical region.

1.2.1. RECOMMENDATIONS RELATED TO THE RIGHTS TO WATER AND SANITATION

AFRICA

States in the Africa region have been advised to dedicate a major share of their budget towards infrastructure, to improve the access to basic necessities like food, health, water and sanitation. To combat poverty, social services should be affordable and inclusive for minority groups like women, children, refugees and rural communities. The implementation of the human right[s] to water and sanitation was emphasised as a way to realise other essential needs.

3rd cycle - Algeria – A/HRC/36/13 - 19 July 2017.

Para 129.142. *Continue to strengthen social policy to provide the same opportunities and the same services to all citizens, including peasants and others working in rural areas, in road, education and hospital infrastructure and water supply, sanitation and energy* (Plurinational State of Bolivia)

1st cycle - Angola - A/HRC/14/11 - 24 March 2010

Para 132. *To consider intensifying efforts to achieve further gains in the areas of poverty reduction; the right to adequate housing; the right to health, water and basic sanitation; and the right to education for all sectors of society* (Malaysia);

2nd cycle - Angola - A/HRC/28/11 – 5 December 2014

Para 134.144. *Develop a strategic plan for the supply of water and sanitation, in particular for rural communities* (Spain);

Para 134.153. *Pay special attention to the needs of women in strategies to combat poverty, ensuring that women have enhanced access to health, education, clean water and sanitation and income-generating activities* (State of Palestine);

2nd cycle - Benin - A/HRC/22/9 - 11 December 2012

Para 108.95. *Continue cooperation with the international community for better access to food, water and sanitation for the population of Benin, given the country's limited resources* (Holy See);

2nd cycle - Botswana - A/HRC/23/7 - 22 March 2013

Para 116.39. *Support at national, regional and international level the promotion and universal realization of the human right to safe drinking water and sanitation, pursuant the recommendation made by the Council in its different resolutions on the matter (Spain);*

Para 116.42. *Improve the reception conditions, ... access to water and sanitation ... for refugees; (Ecuador);*

Para 117.34. *Guarantee the return of the San communities to the Kalahari reserve, and facilitate their access to safe drinking water and sanitation (Spain);*

2nd cycle - Burundi - A/HRC/23/9 – 25 March 2013

Para 126.153. *Strengthen efforts to increase food security for the general population, and particularly those in extreme poverty in rural areas, as well as increase its budget for social infrastructure and social services, including ... water and sanitation (Namibia)*

2nd cycle - Burkina Faso - A/HRC/24/4 - 8 July 2013

Para 135.119. *Evaluate the possibility to set out, as a national priority, the full realization of the right to water and sanitation, which is essential to achieve other priorities established such as health, education and gender equality (Spain);*

2nd cycle - Brunei Darussalam - A/HRC/27/11 - 7 July 2014

Para 113.174. *Continue ensuring the right to safe drinking water and sanitation for all persons (Egypt);*

2nd cycle - Cameroon - A/HRC/24/15 - 5 July 2013

Para 131.100. *Allocate appropriate resources with a view to improve conditions in prisons and detention centres, in particular to address their infrastructural needs, inmates access to safe drinking water and food, sanitation, medical care as well as to legal counsel (Slovakia);*

2nd cycle - Cape Verde - A/HRC/24/5 - 3 July 2013

Para 116.11. *Adopt the necessary policies to correct existing deficiencies in access to water and sanitation of the population (Spain)*

2nd cycle - Central African Republic - A/HRC/25/11 - 6 January 2014

Para 104.77. *Ensure, with the support of the international technical assistance, access for the entire population, including internally displaced persons, to drinking water and sanitation, ... (Republic of Moldova)*

2nd cycle - Comoros - A/HRC/26/11 - 7 April 2014

Para 110.38 *Establish shelters and other facilities for victims of violence, ... through, inter alia, public awareness campaigns, education, and the promotion of equal and non-discriminatory access to ... water and sanitation facilities ... (Germany);*

1st cycle - Djibouti – A/HRC/11/16 - 5 October 2009

Para 20. *Redouble its efforts in addressing the issue of extreme poverty and develop more sustainable poverty reduction strategies which include access to clean water, adequate sanitation ... (Malaysia)*

2nd cycle - Egypt - A/HRC/28/16 - 24 December 2014

Para 166.273. *Take concrete measures to guarantee access to safe drinking water and sanitation for all, particularly for those in rural areas (Maldives)*

1st cycle - Equatorial Guinea – A/HRC/13/16 - 4 January 2010

Para 33. *Improve detention conditions by providing food, water and sanitary installations as well as by reducing prison overcrowding (Switzerland)*

Para 61. *Devote an adequate share of the national budget to social policies, prioritizing measures that improve access to food, health, education, housing, water and sanitation, especially for the most vulnerable (Italy)*

2nd cycle - Equatorial Guinea - A/HRC/27/13 - 7 July 2014

Para 134.83 *Allocate a major proportion of its budget to public health, emphasizing the supply of safe drinking water and sanitation services* (Spain)

Para 135.79 *Reinforce and widen the scope of laudable initiatives such as the rationalization by the National Institute of Statistics of investment on social issues such as health infrastructure, access to water and sanitation, ...* (Brazil)

2nd cycle - Ethiopia – A/HRC/27/14 - 7 July 2014

Para 155.134. *Continue the measures implemented for the right to water and sanitation within the framework of General Assembly resolution 64/292* (Bolivia (Plurinational State of))

2nd cycle - Kenya - A/HRC/29/10 - 26 March 2015

Para 142.154. *Implement specific standards and regulations ensuring affordable water, sanitation and food for the most vulnerable groups and the barriers and challenges to poverty alleviation are properly addressed* (Albania)

2nd cycle - Lesotho - A/HRC/29/9 - 13 April 2015

Para 113.86. *Continue efforts to develop access to water and sanitation and to combat disparities between urban and rural areas* (Togo)

2nd cycle - Madagascar - A/HRC/28/13 - 23 December 2014

Para 109.10. *Take all the necessary measures, including material assistance and support programmes to families, to ... ensure that all persons, especially children, have an adequate standard of living, including access to clean drinking water and sanitation* (Slovenia);

Para 109.11. *Provide greater resources to ensure universal access to drinking water and sanitation, particularly in rural areas* (Spain)

2nd cycle - Mali - A/HRC/23/6 - 12 March 2013

Para 111.76. *Carry on with projects to decrease the lack of access to safe drinking water and sanitation in order to combat the risk of cholera contamination* (Egypt);

Para 111.77. *Redouble its efforts in designing a comprehensive health programme, including through providing access to safe drinking water and sanitation* (Indonesia)

1st cycle - Mozambique - A/HRC/17/16 - 28 March 2011

Para 89.84. *Increase its efforts to enable the people of Mozambique to benefit from clean, high-quality drinking water as well as sanitation infrastructure* (Luxembourg)²⁰

Para 89.85. *Intensify programmes to improve the social security system, the housing projects, home sanitation facilities and access to drinking water, as recommended by the Committee on the Rights of the Child s of the Child* (Chile)

2nd cycle - Mozambique - A/HRC/32/6 - 12 April 2016

Para 128.135. *Advance the effective realisation of the human rights to safe drinking water and sanitation by improving the conditions of access particularly by expanding the network in rural areas* (Spain);

1st cycle - Namibia - A/HRC/17/14 - 24 March 2011

Para 98.20. *Assess the possibility of extending an invitation to the United Nation special procedures, with thanks for the information provided regarding the invitation to the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation* (Chile)

2nd cycle - Namibia - A/HRC/32/4 - 15 April 2016

Para 137.92. *Implement effectively the Green Scheme, the San Development, Land distribution, the Mass Housing Programme, Water Supply and Sanitation, Safe drinking water, ...* (Democratic People's Republic of Korea);

20 See also Singapore's recommendation on continuing the efforts to improve the access to water and sanitation, para 89.86.

Para 137.183. *Make progress in the effective realization of human rights to safe drinking water and sanitation through increasing the public water infrastructures, particularly in rural areas and in informal urban settlements, through the adequate training and awareness-raising on sanitation of the local communities who benefit from these services* (Spain);

Para 137.184. *Ensure access to clean water supply and proper sanitation* (Malaysia);

Para 137.213. *Protect fully the human rights of persons belonging to minorities including their rights to water, sanitation, land, education and health as well as access to all public services in an equal and just manner* (Portugal)

2nd cycle - Niger - A/HRC/32/5 - 12 April 2016

Para 120.148. *Advance in the effective implementation of the human rights to water and sanitation, by increasing public water infrastructures* (Spain);

2nd cycle - Rwanda - A/HRC/31/8 - 18 December 2015

Para 133.40. *Continue working for the full realization of the human right to water and sanitation* (Plurinational State of Bolivia)

2nd cycle - Sao Tome and Principe - A/HRC/31/17 - 13 January 2016

Para 107.76. *Improve access to drinking water and sanitation through a national action plan* (Turkey);²¹

2nd cycle - Senegal - A/HRC/25/4 - 11 December 2013

Para 124.87. *Continue its efforts to expand access to safe drinking water and sanitation by ensuring better coordination and coherence in the implementation of initiatives aimed at expanding access to water and sanitation in rural areas* (Egypt)

1st cycle - Seychelles - A/HRC/18/7 - 11 July 2011

Para 100.71. *Ensure universal access to safe drinking water and sanitation* (Slovenia)

Para 100.72. *Redouble efforts to implement the recommendations of the Committee on the Rights of the Child concerning the application of environmental rules to ensure universal access to drinking water and sanitation* (Morocco)

2nd cycle - Seychelles - A/HRC/32/13 - 8 April 2016

Para 120.130. *Continue to strengthen policies and programmes to ensure that all in Seychelles have access to safe water and sanitation* (Singapore)

2nd cycle - Somalia - A/HRC/32/12 - 13 April 2016

Para 136.118. *Allocate adequate resources for ensuring access to safe drinking water and sanitation, to proper health care services for women and children, as well as to affordable and satisfactory education* (Ukraine);

3rd cycle – South Africa - A/HRC/36/16 - 18 July 2017

Para 139.32. *Accept the request for a visit by the Special Rapporteur on the human right to safe drinking water and sanitation* (Uruguay);

Para 139.155. *Continue efforts to ensure that households, schools and health facilities have access to safe water and sanitation* (Djibouti);

Para 139.156. *Continue to enhance the realization of the human rights to water and sanitation, giving special attention to ensuring that all homes, health centres and educational establishments have safe drinking water and improved sanitation facilities* (Spain);²²

2nd cycle - South Africa - A/HRC/21/16 - 9 July 2012

Para 124.121. *Take additional measures to guarantee access for all citizens to safe drinking water and sanitation* (Togo);

²¹ See also Algeria's recommendation on improving access to drinking water and sanitation, para 107.77.

²² See also Uruguay's similar recommendation, para 139.157.

1st cycle - Sudan - A/HRC/18/16 - 11 July 2011

Para 83.145. *Take effective measures to ensure accessibility of safe drinking water and access to adequate sanitation facilities, particularly in remote rural areas* (Iran)

2nd cycle - Swaziland - A/HRC/33/14 - 13 July 2016

Para 107.64. *Significantly increase spending for potable water supply and sanitation projects, especially in rural areas, up to a value close to 0.5 per cent of gross domestic product* (Spain);

2nd cycle - Tanzania - A/HRC/33/12 - 14 July 2016

Para 134.104. *Improve access to safe drinking water and adequate sanitation facilities* (Maldives);
 Para 134.111. *Continue its efforts to improve the physical environment of schools, including by ensuring appropriate water and sanitation facilities, and to ensure the full enrollment of all children in education* (State of Palestine);

1st cycle - Togo - A/HRC/19/10 - 14 December 2011

Para 100.76. *Take effective measures to ensure access to safe drinking water, adequate sanitation facilities and health care, particularly in remote and rural areas* (Iran)

2nd cycle - Tonga - A/HRC/23/4 - 21 March 2013

Para 79.47. *Provide national, regional and international support to the promotion and universal realization of the human right to potable water and sanitation, in accordance with the recommendations made by the Council in its different resolutions on this matter* (Spain);

1st cycle - Zimbabwe - A/HRC/19/14 - 19 December 2011

Para 93.29. *Intensify efforts to implement national programmes that promote the rights of its people, including in the field of the rights of Children and Women as well as rights of education, to health, to adequate water and to sanitation, through enhancing the capacity of the Government and cooperation with relevant stakeholders, including civil society, media and international community* (Indonesia)

Para 94.31. *Incorporate in the Zimbabwe's Draft National Policy on Domestic Water Supply and Sanitation the principles of the human rights framework created by the Special Rapporteur on the human right to safe drinking water and sanitation* (Portugal)

AMERICAS

Recommending States have encouraged countries in the Latin American and Caribbean region to continue efforts to increase access to water and sanitation. Special attention was given to vulnerable groups, mainly indigenous people and detainees. The importance of meeting the Millennium Development Goals was also reiterated by some States. In North America, the recommendations concerned strengthening access to water and sanitation, especially by adopting legislation and increasing funding.

2nd cycle - Antigua and Barbuda - A/HRC/33/13 - 23 June 2016

Para 76.32. *Make a concerted effort to increase the number of households with access to piped water, sanitation and electricity, with appropriate assistance from bilateral, regional and international partners* (Jamaica);

2nd cycle - Bolivia - A/HRC/28/7 – 17 December 2014

Para 113.9. *Finish the development of indicators for the human right to water and sanitation, combating trafficking and smuggling of human beings, and access to justice and fair trial* (Peru)

1st cycle - Bolivia – A/HRC/14/7 - 15 March 2010

Para 71. *Explore possibilities for further cooperation at the regional and international levels with relevant stakeholders with a view to achieving the Millennium Development Goals related to poverty eradication, nutrition, water and sanitation and environmental sustainability* (Malaysia)

3rd cycle - Brazil - A/HRC/36/11 - 18 July 2017

Para 136.76. *Improve detention conditions, including basic sanitation and access to water, food and medical care* (Republic of Korea)

Para 136.145. *Address challenges of water and sanitation in favelas by full implementation of the National Sanitation Plan* (South Africa)

Para 136.146. *Take further efforts to improve access to water and sanitation, especially in the north and north-east of the country, through the effective implementation of the principle of equality, and to gradually reduce inequalities through the implementation of the National Sanitation Plan* (Spain)

136.147. *Strengthen endeavours to ensure access to safe drinking water and sanitation through installing water and sanitation networks* (Turkey)

2nd cycle - Canada - A/HRC/24/11 - 28 June 2013

Para 128.132. *Strengthen the guarantees for access to drinking water and sanitation for the entire population, especially for indigenous populations and the most remote areas* (Spain);

Para 128.133. *Take steps, including legislation and sufficient funding, to ensure that all Canadians have full and equal access to clean water and sanitation, in line with the United Nations resolution passed in 2012, recognizing the human right to water and sanitation* (Norway);

1st cycle - Costa Rica – A/HRC/13/15 - 4 January 2010

Para 61. *Take appropriate measures to address the disparities in access to safe drinking water and sanitation between the rural and urban areas, paying particular attention to persons belonging to vulnerable and marginalized groups* (Malaysia)

2nd cycle - Costa Rica - A/HRC/27/12 - 7 July 2014

Para 128.26. *Enact a new water law as soon as possible giving effect to the right to water, as recommended by the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation* (Spain);

Para 128.153. *Continue with the measures implemented in favour of the human right to water and sanitation, in the framework of General Assembly resolution 64/292 (Bolivia (Plurinational State of))*;

1st cycle - Dominica - A/HRC/13/12 - 4 January 2010

Para 42. *Take all necessary measures to ensure access to safe drinking water and adequate sanitation facilities throughout the country* (Germany)

2nd cycle - Guyana - A/HRC/29/16 - 13 April 2015

Para 130.63. *Continue implementing programmes and plans aimed at improving services linked to drinking water and sanitation* (Algeria);

Para 130.64. *Continue to strengthen the construction of drinking water and basic sanitation facilities in order to provide better basic services for its people* (China)

1st cycle - Haiti - A/HRC/19/19 - 8 December 2011

Para 88.72. *Address the infrastructural needs of country's penitentiary system, including inmate's access to food, water and sanitation as well as health care* (Slovakia)

2nd cycle - Honduras - A/HRC/30/11 - 15 July 2015

Para 125.72. *Continue to prioritize efforts to improve the health of its people, including through the enactment of water and sanitation services* (Singapore)

1st cycle - Nicaragua - A/HRC/14/3 - 17 March 2010

Para 54. *Welcoming the recognition of access to safe drinking water as an inalienable right of all human beings, continue efforts with regard to monitoring and accountability, guaranteeing the minimum standards of availability, quality and accessibility* (Spain);

2nd cycle - Nicaragua - A/HRC/27/16 - 1 July 2014

Para 114.109. *Continue monitoring the guarantee of the exercise of the human right to drinking water and sanitation, respecting the principle of nondiscrimination, granting specific attention to rural communities and vulnerable groups, and supporting the committees for drinking water and sanitation as well as the municipal governments (Spain)*

1st cycle - Panama - A/HRC/16/6 - 4 January 2011

Para 68.14. *Consider the possibility of inviting the Independent Expert on the issue of human rights obligations concerning access to drinking water and sanitation (Uruguay)*

2nd cycle - Panama - A/HRC/30/7 – 8 July 2015

Para 90.109. *Take appropriate measures to meet the needs of indigenous and rural populations that still have clear difficulties to access to safe drinking water and sanitation (Spain)*

2nd cycle - Peru - A/HRC/22/15 - 27 December 2012

Para 116.89. *Adopt a complex strategy to combat the poverty in the rural regions and implement measures to expand the access of the population in those regions to drinking water and sanitation (Belarus)*

1st cycle - Venezuela - A/HRC/19/12 - 7 December 2011

Para 94.48. *Continue carrying out its sound public policies for drinking water and sanitation coverage for all its population, which have already allowed to surpass the seventh Millennium Development Goal (Bolivia)*

ASIA-PACIFIC

In addition to the protection and promotion of access to water and sanitation, Recommending States have advised countries in Asia to adopt legislation and policies to accelerate implementation of basic social services. Recommending parties encouraged States to cooperate with international bodies and standards. Emphasis was also given to the need to improve conditions in rural areas.

2nd cycle - Bangladesh – A/HRC/24/12 - 8 July 2013

Para 129.127. *Continue cooperation with international community so as to improve the access to food, water and sanitation for the whole population given the country's limited resources and its exposure to natural disasters (Holy See);*

129.129. *Continue its efforts in protecting and promoting the right to safe drinking water and sanitation nationally and globally (Egypt);*

Para 130.15. *Adopt an action plan to address the situation of Dalits and eliminate discrimination against them, including by ensuring access to safe drinking water and sanitation (Slovenia)*

2nd cycle - Bhutan - A/HRC/27/8 - 1 July 2014

Para 118.78. *Adopt a comprehensive approach that includes providing a healthy environment, safe water and sanitation and proper childcare (Ireland)*

2nd cycle - Democratic People's Republic of Korea - A/HRC/27/10 - 2 July 2014

Para 124.147. *Take immediate steps to allocate proper budgetary resources to ensure protection of the rights to food, health, water and sanitation (Ukraine);*

Para 124.159. *Continue ensuring the right to safe drinking water and sanitation for all persons (Egypt)*

2nd cycle - Fiji - A/HRC/28/8 - 17 December 2014

Para 99.78. *Continue to strengthen the implementation of the rights to drinking water and sanitation for the whole population, especially for rural communities (Spain)*

2nd cycle - India - A/HRC/21/10 - 9 July 2012

Para 138.138. *Ensure that every household enjoys the right to safe drinking water and sanitation (Slovenia);*

Para 138.139. *Further accelerate the sanitation coverage and the access to safe and sustainable drinking water in rural areas (Myanmar);*

3rd cycle - India - A/HRC/36/10 - 17 July 2017

Para 161.155. *Implement a human rights-based, holistic approach to ensure access to adequate housing as well as to adequate water and sanitation, including for marginalized groups, Dalits, scheduled castes, the homeless, the landless, scheduled tribes, religious and ethnic minorities, persons with disabilities and women (Germany)*

Para 161.168. *Continue its fight against poverty, lack of adequate food, safe water and sanitation, while paying special attention to the need to introduce a child rights-based approach in all policies (Bulgaria)*

Para 161.170. *Continue to increase access to safe and sustainable drinking water in rural areas and to improve sanitation coverage, especially for women and girls (Singapore)*

2nd cycle - Japan - A/HRC/22/14 - 14 December 2012

Para 147.153. *Take all necessary measures to ensure adequate access to water and sanitation by children with disabilities in all Japanese schools (Portugal)*

2nd cycle - Kiribati - A/HRC/29/5 - 13 April 2015

Para 84.83. *Heed the recommendations of the Special Rapporteur on the human right to safe drinking water and sanitation regarding improvements to water and sanitation infrastructure (Slovenia);*

Para 84.85. *Ensure affordable access to water and sanitation, and that the price paid for access to these rights is not incompatible with access to other rights such as food, housing or education (Spain);*

Para 84.86. *Strengthen its legal and institutional frameworks with respect to the implementation of human rights and the right to water and sanitation (Trinidad and Tobago);*

Para 84.91. *Adopt sanitation and residual water treatment strategies in order to prevent the high rate of child mortality due to water-related diseases (Mexico)*

2nd cycle - Marshall Islands - A/HRC/30/13 - 20 July 2015

Para 75.62. *Step up existing cooperation with international bodies in respect of the human right to water and sanitation, in particular with the United Nations Environment Programme and with the Special Rapporteur on the human right to safe drinking water and sanitation (Spain);*

Para 75.95. *Improve public infrastructure such as water supply, sanitation and waste management so as to ensure adequate living standards and the right to health for its people (China)*

1st cycle - Mongolia - A/HRC/16/5 - 4 January 2011

Para 84.105. *Ensure access to health care, adequate housing, education and safe drinking water and sanitation for all, especially people living in - ger - districts (Slovenia)*

1st cycle - Pakistan - A/HRC/8/42 - 4 June 2008

Para 34. *Take effective measures to allow women, particularly in rural areas, to have access to health services, education, clean water and sanitation (Luxembourg)*

2nd cycle - Papua New Guinea - A/HRC/33/10 - 13 July 2016

Para 104.140. *Improve access to drinking water and sanitation in rural areas and urban settlements as well as in key areas such as schools in order to bring about the realization of the right to drinking water and the right to sanitation (Spain)*

2nd cycle - Samoa - A/HRC/33/6 - 27 June 2016

Para 95.71. *Provide members of the Samoa Police Service with training on the human rights of accused and detained persons, and ensure that provisions made for food, water and sanitation at detention facilities meet the United Nations Standard Minimum Rules for the Treatment of Prisoners (Canada);*

Para 95.72. *Uphold the commitment as to the realization of the human rights to safe drinking water and sanitation (Spain)*

2nd cycle - Solomon Islands - A/HRC/32/14 - 13 April 2016

Para 99.12. *Continue efforts to guarantee access to girls, boys, women and persons with disabilities to health services, education services, drinking water and sanitation* (Mexico)

Para 99.49. *Allocate the same attention and resources to both the human rights to water and to sanitation* (Spain)

1st cycle - Tajikistan - A/HRC/19/3 - 12 December 2011

Para 88.47. *Take further measures to increase the capacity of penitentiary institutions and better promote the prisoners' rights, among others, the right to food and the right to safe water and sanitation* (Morocco)

Para 88.65. *Accelerate efforts to improve access to adequate, clean and safe drinking water as well as providing sewage services for the population* (Malaysia)

1st cycle - Timor-Leste - A/HRC/19/17- 3 January 2012

Para 78.31. *Continue implementation of effective policies and programmes aimed at improving among others the health, education, standard of living and access to safe drinking water and sanitation of the people* (Malaysia)

2nd cycle - Turkmenistan - A/HRC/24/3 - 5 July 2013

Para 112.74. *Make more efforts to develop poverty reduction strategies and adopt legislations to ensure safe drinking water and sanitation* (State of Palestine);

Para 112.75. *Adopt appropriate legislative and administrative measures to ensure the full realization of the right to drinking water and sanitation for the whole population, with special attention to rural areas* (Spain);

Para 112.76. *Continue its efforts to ensure the protection and promotion of the right to safe drinking water and sanitation* (Egypt);

2nd cycle - Tuvalu - A/HRC/24/8 - 5 July 2013

Para 82.61. *Increase the initiatives to guarantee access for all to drinking water and sanitation* (Spain);

Para 82.62. *Move forward, at the earliest possible opportunity, with the adoption of the draft Water Act to establish a legal framework and put in place water resources and sanitation infrastructure, including adequate collection, storage and distribution mechanisms to alleviate the challenges of scarcity and to ensure that all its citizen's right to safe drinking water and sanitation are safeguarded* (Maldives);

Para 82.63. *Adopt and implement a national water strategy and plan of action covering the entire population, and make access to water and sanitation affordable to all* (Slovenia);

Para 82.64. *Include, among the priorities of the Second National Strategic Development Plan, the access to sanitation along with access to drinking water which is already contained* (Spain)

1st cycle - Vanuatu - A/HRC/12/14 - 4 June 2009

Para 41. *Consider addressing the disparities in the delivery of and access to quality basic social services such as health, education, water and sanitation services.* (Malaysia)

2nd cycle - Vanuatu - A/HRC/26/9 - 4 April 2014

Para 99.76. *Take further steps to ensure the progressive realization for all inhabitants of the human right to safe drinking water and sanitation* (Germany);

Para 99.77. *Adopt policies and take measures to ensure full realization of the right to safe drinking water and sanitation, with special focus on rural areas* (Maldives);

Para 99.78. *Invest in the necessary infrastructure so that all citizens have access to adequate drinking water and sanitation, especially in rural areas* (Spain);

Recommending States reinforced the obligation of Eastern European countries to improve living conditions of the Roma people, especially granting adequate access to water, sanitation and other basic services. Concerns were also raised about discrimination towards vulnerable groups and forced evictions. With respect to Western European countries, Recommending States encouraged active promotion and implementation of the human rights to water and sanitation, drawing special attention to the General Assembly resolution 64/292 on the same subject. States also called for inclusive action for the poorest sections of the population, especially migrants and indigenous peoples.

2nd cycle - Azerbaijan - A/HRC/24/13 - 5 July 2013

Para 109.147. *Further protect and promote the right to safe drinking water and sanitation* (Egypt)

2nd cycle - Bulgaria - A/HRC/30/10 - 8 July 2015

Para 123.156. *Continue strengthening policies to integrate the Roma population and ensure they have access to basic health and social services, with particular emphasis on the rights to safe drinking water and sanitation, as well as education, housing and employment* (Spain);

2nd cycle - Croatia - A/HRC/30/14 - 20 July 2015

Para 99.118. *Continue ensuring the full realization of the right to safe drinking water and sanitation for all* (Egypt)

1st cycle - Georgia - A/HRC/17/11 - 16 March 2011

Para 105.94. *Intensify its efforts to ensure that collective centres and resettlement zones for IDPs that are still in operation meet adequate living standards, in particular access to drinking water and basic sanitation. Forced evictions should be exceptional, proceed in compliance with due process and respect the right to adequate housing for the affected population* (Spain).

2nd cycle - Georgia - A/HRC/31/15 - 13 January 2015

Para 118.40. *Continue taking steps to ensure the full realization of the right to safe drinking water and sanitation for all, including through adequate investment in the relevant services infrastructure* (Egypt)

2nd cycle - Luxembourg - A/HRC/23/10 - 25 March 2013

Para 116.18. *Actively support the promotion and implementation of the universal human right to safe drinking water and sanitation pursuant to the recommendations made by the Council in its various resolutions on the subject* (Spain)

2nd cycle - Portugal - A/HRC/27/7 - 7 July 2014

Para 127.76. *Continue the measures implemented to ensure the right to water and sanitation within the framework of General Assembly resolution 64/292* (Plurinational State of Bolivia)

2nd cycle - Romania - A/HRC/23/5 - 21 March 2013

Para 109.109. *Actively support the promotion and universal implementation of the human right to safe drinking water and sanitation in accordance with the recommendations made by the Human Rights Council in its various resolutions on this issue* (Spain)

2nd cycle - Serbia - A/HRC/23/15 - 22 March 2013

Para 132.85. *Continue its effort to ensure the access of all citizens to safe drinking water and sanitation* (Egypt)

2nd cycle - Slovakia - A/HRC/26/12 - 26 March 2014

Para 110.137. *Pay particular attention to the provision of adequate basic services to the Roma population, such as drinking water, sanitation, electricity and systems of sewage and waste disposal* (Spain)

2nd cycle - Slovenia - A/HRC/28/15 - 10 December 2014

Para 115.75. *Guarantee the right of Roma people to adequate housing, water and sanitation, work, education, and security of tenure of their settlements* (Venezuela (Bolivarian Republic of))

Para 115.82. *Take further measures to provide security of tenure and promote access to water, sanitation, education, health and employment for all Roma communities* (Brazil);

Para 115.83. *Intensify its efforts to ensure that the Roma are not victims of discrimination, especially in areas such as access to housing and the right to drinking water and sanitation* (Chile)

Para 115.90. *Continue to improve Roma conditions, access to housing, water, sanitation, education and employment and make further efforts to combat all forms of intolerance and racism against them* (Thailand);

Para 115.139. *Implement recommendations by the Special Rapporteur on the rights to water and sanitation regarding access to water for Roma* (Israel);

Para 115.140. *Continue to take measures in order to guarantee universal access to safe drinking water and sanitation* (Portugal);

Para 115.158. *Continue increasing the allocation of additional resources to improve the living conditions of the Roma population in the informal settlements, by strengthening their security of tenancy and ensuring the human right to drinking water and sanitation and access to electricity* (Spain)

2nd cycle - United Kingdom - A/HRC/21/9 - 6 July 2012

Para 110.104. *Recognize the right of access to safe drinking water and sanitation in line with GA resolution 64/292 and HRC resolution 18/1, as well as CESCR recommendations recognizing the right to sanitation as an integral part of the human right of access to safe drinking water* (Spain)

Para 110.105. *Fully recognize the human right to safe drinking* (Germany) [sic.];

2nd United States of America - A/HRC/30/12 - 20 July 2015

Para 176.311. *Continue efforts to implement the human right to safe water and sanitation, ensuring this human right without discrimination for the poorest sectors of the population, including indigenous peoples and migrants* (Spain);

Para 176.312. *Ensure compliance with the human right to water and sanitation according to General Assembly resolution 64/292* (Plurinational State of Bolivia);

MIDDLE EAST

States in the Middle East region were reminded of their humanitarian law obligations to ensure access to water and sanitation to populations of occupied areas. Also mentioned was the need to exert more effort to provide basic public services, including water and sanitation to the Bedouin population and those living in rural areas.

1st cycle - Israel - A/HRC/10/76 - 8 January 2009

Para 26. *Ensure access of Bedouin populations to basic public services, such as sanitation, electricity and water* (Canada)

Para 36. ... *grant access to safe drinking water to Syrian citizens living in the occupied Syrian Golan* (South Africa);

2nd cycle - Israel - A/HRC/25/15 - 19 December 2013

Para 136.226. *Take all the necessary measures to guarantee for the Palestinians who live in the occupied Palestinian territories access to adequate quantities of drinking water and to appropriate sewage systems, including by facilitating the entry of the materials required to reconstruct the water supply system and sewage system in these territories* (Uruguay);

136.228. *Comply with the obligations of an occupying power, in line with international humanitarian law, providing water and sanitation to the occupied population* (Bolivia (Plurinational State of));

1st cycle - Kyrgyzstan - A/HRC/15/2 - 16 June 2010

Para 77.40. *Request cooperation and technical assistance from the relevant UN bodies for the removal of land mines and the demarcation of border zones, as well as to improve the distribution of drinking water and the access to sanitation services (Uruguay)*

1st cycle - Turkey - A/HRC/15/13 - 17 June 2010

Para 100.86. *Harmonize efforts and coordinate the roles and tasks of stakeholders involved in managing access to drinking water and sanitation to ensure provision of drinking water, in particular for rural populations (Morocco)*

1.2.2. RECOMMENDATIONS RELATED TO THE RIGHT TO WATER**AFRICA**

Countries in this region have mostly been recommended to intensify efforts to ensure access to water, especially for human consumption and agricultural use. Recommending States reinforced the importance of water in relation to health issues such as maternal and child mortality. The need to ensure indigenous peoples have their right to land and water sources was also mentioned. Additionally, countries were advised to develop programmes to increase infrastructure and improve the relationship between domestic legislation and international law.

1st cycle - Angola - A/HRC/14/11 - 24 March 2010

Para 112. *To continue efforts to ensure safe drinking water, in order to achieve the goal of 80 per cent of the population or more by 2012 (Sudan);*

2nd cycle - Angola - A/HRC/28/11 – 5 December 2014

Para 134.143. *Continue actions to improve compliance with the human right to water, in the framework of General Assembly resolution 64/292 (Bolivia (Plurinational State of))*

2nd cycle - Democratic Republic of Congo - A/HRC/27/5 - 7 July 2014 Para 134.142. *Pursue and deploy in the whole territory the programmes and projects for the development of rural infrastructure, in particular those aimed at guaranteeing access to drinking water (Côte d'Ivoire);*

Para 134.144. *Ensure the effective implementation of the national strategy on maternal and child mortality, including through addressing root causes of under-5 mortality, such as poverty, undernutrition, harmful practices, and lack of access to safe drinking water, health-care services and education (Ireland);*

1st cycle - Ethiopia - A/HRC/13/17- 4 January 2010

Para 69. *Give priority to programmes for upgrading land and water resources to reduce the long-term vulnerability caused by drought and allowing the population to satisfy its needs in water and food; and, in this regard, request the assistance of competent United Nations agencies and programmes (Algeria)*

Para 71. *Strengthen measures aimed at poverty eradication and improvement of access to safe drinking water, as well as social services (South Africa);*

2nd cycle - Ethiopia A/HRC/27/14 7 July 2014

Para 158.6. *Intensify efforts in order to reach universal water coverage as well as signing and ratifying the Optional Protocol to the ICESCR (Portugal);*

1st cycle - Eritrea - A/HRC/13/2 - 4 January 2010

Para 110. *Intensify efforts aimed at achieving health-related Millennium Development Goals including child health, ... and other major diseases and access to safe water (Malaysia)*

1st cycle - Botswana - A/HRC/10/69- 13 January 2009

Para 17. *Provide access to land and support for the residents of the Reserve, as specified in the United Nations Declaration on the Rights of Indigenous Peoples, and work with the land boards of the various districts to ensure equity in land allocation among all applicants for residential, arable and grazing land, water sources and business sites (Denmark).*

2nd cycle - Botswana - A/HRC/23/7 - 22 March 2013

Para 117.35. *Ensure that tourism development in the Central Kalahari Reserve allows indigenous peoples to continue with its traditional practices, including hunting and harvesting for subsisting, as well as access to water (Mexico);*

2nd cycle - Burkina Faso - A/HRC/24/4 - 8 July 2013

Para 135.117. *Make efforts to eliminate regional disparities in access to safe drinking water, especially between urban and rural areas (Slovenia);*

2nd cycle - Comoros - A/HRC/26/11 - 7 April 2014

Para 110.68. *Generate adequate infrastructure so that all citizens have access to safe drinking water for human consumption (Spain);*

2nd cycle - Cote d'Ivoire - A/HRC/27/6 - 7 July 2014

Para 127.177. *Redouble actions to improve the compliance with the human right to water (Bolivia (Plurinational State of))*

2nd cycle - Djibouti - A/HRC/24/10 - 8 July 2013

Para 143.140. *Continue to empower women through its micro credit programme and intensify efforts to support rural women with access to water (Nigeria)*

2nd cycle - Kenya - A/HRC/29/10 - 26 March 2015

Para 142.147. *Approve and implement the Water Bill as a matter of urgency, particularly for rural and suburban communities (Spain)*

1st cycle - Kenya - A/HRC/15/8 - 17 June 2010

Para 101.93. *Ensure the equitable distribution of water and food to the entire population, especially during times of drought (Spain);*

2nd cycle - Liberia - A/HRC/30/4 - 13 July 2015

Para 100.168. *Increase its efforts to improve the living standards of its population and particularly the access to health care, education, work and safe drinking water (Togo)*

1st cycle - Liberia - A/HRC/16/3 - 4 January 2011

Para 78.41. *... improving electricity services, drinking water and the road network, and streamline the relationship between its domestic legislation and the international human rights instruments that it has signed by bringing its domestic legislation into line with the requirements of international law (China)*

1st cycle - Libya - A/HRC/16/15 - 4 January 2011

Para 93.52. *Take appropriate measures aimed at full access to an improved water source for the population (Iran)*

1st cycle - Malawi - A/HRC/16/4 - 4 January 2011

Para 102.52. *Focus on priorities set by the Government to strengthen human rights, especially agriculture and food security and the development of the green belt for irrigation and water, as well as education and technology (Libyan Arab Jamahiriya)*

2nd cycle - Mauritius - A/HRC/25/8 - 26 December 2013

Para 128.91. *Continue to make further inroads towards combating poverty and also ensuring that its population has an affordable access to a steady supply of water (Trinidad and Tobago)*

2nd cycle - Morocco - A/HRC/21/3 - 6 July 2012

Para 129.108. *Continue the campaign put in case for the widespread access to potable water and electricity in the rural area* (Monaco)

1st cycle - Mozambique - A/HRC/17/16 - 28 March 2011

Para 89.71. *Continue its efforts to fight poverty and ensure sustainable development; as well as implement fully plans to reduce illiteracy and to provide high-quality medical services (particularly to those affected by HIV/AIDs); ensure the population has access to water* (Russian Federation)

1st cycle - Niger - A/HRC/17/15 - 25 March 2011

Para 76.64. *Further its measures aimed at the reduction of poverty and dealing with food insecurity and access to water resources* (Azerbaijan)

Para 76.68. *Engage the relevant international organizations and international donors to address the problem of food crises and provide better access to safe drinking water for the population* (Malaysia)

Para 76.76 *Seek cooperation to United Nations agencies and international organizations, in order to request assistance to improve poverty indicators; access to food, drinking water and health* (Chile)

2nd cycle - Nigeria - A/HRC/25/6 - 16 December 2013

Para 135.107. *Make sure that basic living conditions are met in prisons by providing food, drinking water and medical assistance* (Austria)

1st cycle - Republic of Congo - A/HRC/12/6 - 5 June 2009

Para 43. *Improve efforts aimed at increasing access to safe drinking water and reducing cases of infectious diseases.* (Japan)

2nd cycle - Sierra Leone - A/HRC/32/16 - 14 April 2016

Para 111.75. *Address the issue of inadequate water supply in the country urgently, including by providing appropriate temporary measures to communities in rural and urban areas in finding alternative means of water supply* (Malaysia)

2nd cycle - Somalia - A/HRC/32/12 - 13 April 2016

Para 135.77. *Take immediate measures to ensure under-nourished children are provided with nutrition supplements and access to clean water* (Maldives);

1st cycle - South Sudan - A/HRC/18/16 - 11 July 2011

Para 84.6. *Continue negotiations with a view to peacefully settling the remaining stipulations of the [Comprehensive Peace Agreement], particularly with regard to issues like border demarcation, foreign debts, oil and water sharing and citizenship, with the understanding that nobody will be stateless* (Somalia)

1st cycle - Sudan - A/HRC/18/16 - 11 July 2011

Para 83.144. *Provide access to drinking water for each Sudanese* (Democratic Republic of Congo)

Para 83.145. *Take effective measures to ensure accessibility of safe drinking water and access to adequate sanitation facilities, particularly in remote rural areas* (Islamic Republic of Iran)

1st cycle - Swaziland - A/HRC/19/6 - 12 December 2011

Para 76.51. *Continue to improve the supply of portable water, especially in the rural areas, with the support of the international community* (Singapore)

Para 76.57. *Ensure the supply of drinkable water for all the people of the Kingdom* (Holy See)

Para 76.61. *Strengthen policy coordination in the area of food and nutrition security and access to adequate, clean and safe drinking water especially for the population living below poverty line* (Malaysia)

1st cycle - Tanzania - A/HRC/19/4 - 8 December 2011

Para 85.77. *Strengthen policy that would protect and promote food security as well as increase in the access to adequate, clean and safe drinking water especially for the population who live below poverty line* (Malaysia)

Para 86.45. *Hold responsible alleged perpetrators of forced evictions and pollution of drinking water in the area around the big mines* (Norway)

Para 86.46. *Align policies to ensure access to land and water for pastoralists with the African Union Framework on Pastoralism* (Netherlands)

2nd cycle - Tanzania - A/HRC/33/12 - 14 July 2016

134.77. *Improve the infrastructures for the shelters accommodating persons with albinism by providing them with access to drinking water, locked doors, adequate light and safety (Haiti); 134.105. Accelerate ongoing efforts to ensure access to clean and safe water, and to health care, countrywide (Zimbabwe);*

3rd cycle - Tunisia - A/HRC/36/5 - 11 July 2017

Para 125.104. *Continue its efforts to fight against unemployment and prioritize adequate housing and access to water (Sudan);*

1st cycle - Uganda - A/HRC/19/16 - 22 December 2011

Para 112.24. *Align policies to ensure access to land and water for pastoralists with the African Union Framework on Pastoralism and conclude regional agreements to facilitate cross-border pastoralism (Netherlands)*

AMERICAS

Only States in the Latin American and Caribbean region received recommendations addressing explicitly the human right to water. They were suggested to improve the realisation of the human right to water, paying special attention to increasing access among vulnerable groups, mainly indigenous peoples and rural communities. Emphasis was given to the fact that water is key to achieving other fundamental rights, such as the right to life, health and food.

2nd cycle - Bolivia - A/HRC/28/7 – 17 December 2014

Para 113.13. *Continue providing the necessary fund to support its supply of drinking water programme (Malaysia)*

1st cycle - Costa Rica - A/HRC/13/15 - 4 January 2010

62. *Expand access to drinking water to marginalized and vulnerable populations (Republic of Congo)*
74. *Increase its efforts in favour of indigenous populations to ensure the satisfaction of their basic needs (water, health, education) and to combat social exclusion affecting them (France)*

3rd cycle – Ecuador - A/HRC/36/4 - 10 July 2017

Para 118.85. *Carry out the necessary measures to protect the environment and adopt specific measures to protect the enjoyment of the right to water (State of Palestine)*

2nd cycle - Ecuador - A/HRC/21/4 - 5 July 2012

Para 135.51. *Further its measures aimed at reduction of poverty and dealing with food insecurity and access to water resources (Azerbaijan);*

3rd cycle - Ecuador – A/HRC/36/4 - 10 July 2017

Para 118.85. *Carry out the necessary measures to protect the environment and adopt specific measures to protect the enjoyment of the right to water (State of Palestine)*

2nd cycle - El Salvador - A/HRC/28/5 - 17 December 2014

Para 103.39. *Continue actions to improve the realization of the human right to water, under the framework of General Assembly resolution 64/292 (Bolivia (Plurinational State of));*

2nd cycle - Guatemala - A/HRC/22/8 - 31 December 2012

Para 99.94. *Take steps to ensure access to safe drinking water for all the indigenous communities (Slovenia)*

1st cycle - Guyana - A/HRC/15/14 - 21 June 2010

Para 69.26. *Work towards promoting the right to water for its citizens, as water is a main component of the rights to life, health and food basic right and empower inhabitants to enjoy this right and cooperate with relevant international stakeholders (Libya)*

1st cycle - Haiti - A/HRC/19/19 - 8 December 2011

Para 88.123. *Continue taking measures to ensure access to basic services such as water, housing and health for the population in vulnerable situation (Mexico)*

2nd cycle - Jamaica - A/HRC/30/15 - 20 July 2015

Para 119.51. *Augment their efforts to reduce poverty and to provide enhanced access of safe potable water particularly in rural communities (Trinidad and Tobago)*

1st cycle - Nicaragua - A/HRC/14/3 - 17 March 2010

Para 54. *Welcoming the recognition of access to safe drinking water as an inalienable right of all human beings, continue efforts with regard to monitoring and accountability, guaranteeing the minimum standards of availability, quality and accessibility (Spain)*

2nd cycle - Nicaragua - 1 July 2014 - A/HRC/27/16

Para 114.99. *Further improve economic and social indicators, in particular in the sectors of drinking water, education, health and social housing (Democratic People's Republic of Korea)*

1st cycle - Panama - A/HRC/16/6 - 4 January 2011

Para 69.27. *Ensure that the Panama Water Resources Authority takes into account the needs of vulnerable groups and carries out its work without discrimination (Hungary)*

Para 69.28. *Give priority to measures that could guarantee access to drinking water for all citizens, including those living in areas that are difficult to access (Uruguay)*

2nd cycle - Panama - A/HRC/30/7 – 8 July 2015

Para 90.100. *Give priority to measures that may guarantee access to safe drinking water for all citizens (Uruguay)*

2nd cycle - Suriname - A/HRC/33/4 - 1 July 2016

Para 135.43. *Take the necessary measures to combat land and water pollution caused by dangerous industrial waste (Algeria).*

ASIA-PACIFIC

Recommending States expressed concern about the impact of climate change and child mortality in this region. States were urged to improve access to water and other basic necessities, especially to vulnerable groups. Combating poverty should be a priority and a national training programme for law makers and civil society concerning the right to water, was suggested.

1st cycle - Bhutan - A/HRC/13/11 - 4 January 2010

Para 93. *Continue advancing its efforts to improve indicators regarding poverty, illiteracy, schooling, mothers' health and access to water with the cooperation of the international community, in particular the developed countries, which must increase their official development aid and other forms of aid to Bhutan (Cuba)*

2nd cycle - Bhutan - A/HRC/27/8 - 1 July 2014

Para 118.73. *Allocate sufficient resources for potable water projects, especially in rural and marginalized areas (Mexico);*

2nd cycle - China - A/HRC/25/5 - 4 December 2013

186.195. *Ensure the safety of drinking water by promoting the construction of a monitoring network for the safety of drinking water (Mozambique)*

1st cycle - Democratic People's Republic of Korea - A/HRC/13/13 - 4 January 2010

Para 92. *Take the necessary steps to ensure impartial access to adequate food, drinking water and other basic necessities for all people within its jurisdiction, including vulnerable groups (Canada)*

2nd cycle - Democratic People's Republic of Korea - A/HRC/27/10 - 2 July 2014

Para 124.158. *Make efforts to supply quality drinking water and provide adequate cultural facilities to the rural population (Turkmenistan);*

Para 124.160. *Continue to make efforts to ensure the supply of quality drinking water to all of the population (South Sudan);*

2nd cycle - Kiribati - A/HRC/29/5 - 13 April 2015

Para 84.107. *Continue to take into consideration the adverse impacts of climate change on people's access to food and clean water, particularly the most vulnerable sectors of society (Philippines)*

2nd cycle - Maldives - A/HRC/30/8 - 13 July 2015

Para 141.126. *Update and enact the pending disaster management bill with a view to realizing these basic rights to clean and safe drinking water and the right to a clean environment (Fiji);*

Para 143.71. *Adopt legislation for the protection of the environment and establish a joint private-public partnership to reduce the environmental impact of tourism on livelihoods and the rights to housing, safe drinking water, health and an adequate standard of life for its inhabitants (Mexico);*

2nd cycle - Marshall Islands - A/HRC/30/13 - 20 July 2015

Para 75.58. *Adopt and seek technical assistance from donor agencies to implement a national training programme for judges, lawyers, civil society groups and schoolchildren on their rights to water, food security, life, education and health in relation to climate change, and the ways in which the courts can help to develop a Pacific jurisprudence on the relationship between climate change and human rights (Fiji)*

1st cycle - Mongolia - A/HRC/16/5 - 4 January 2011

Para 84.105. *Mandate the Constitutional Court to act upon violations of the individual rights and freedoms guaranteed under the Constitution. This possibility should also help to remedy violations of the land and environmental rights of indigenous and herder peoples, including the right to safe drinking water (Hungary)*

1st cycle - Nauru - A/HRC/17/3 - 8 March 2011

Para 79.99. *Engage members of the international donors and seek technical assistance and capacity building to address the problem of food security and access to clean and fresh water (Malaysia)*

2nd cycle - Nepal - A/HRC/31/9 - 23 December 2015

Para 122.87. *Persevere in its efforts to combat poverty and facilitate access to water for rural populations (Morocco)*

2nd cycle - Papua New Guinea - A/HRC/33/10 - 13 July 2016

Para 104.158. *Dedicate more resources to ensuring access to basic facilities to indigenous peoples including clean water, healthcare and education (Malaysia)*

1st cycle - Solomon Islands - A/HRC/18/8] - 11 July 2011

Para 81.54. *Take the necessary measures to ensure a supply of water of good quality to all informal settlements including the provision of water tanks (Spain)*

2nd cycle - Tuvalu - A/HRC/24/8 - 5 July 2013

Para 82.60. *Comply with the UN Special Rapporteur's recommendation to adopt and implement a national water strategy and plan of action covering the entire population (Trinidad and Tobago);*

1st cycle - Viet Nam - A/HRC/12/11 - 5 October 2009

Para 65. *Continue with its very successful and socially-oriented economic policy, including by for example providing proper drinking water to poor households and to special hardship regions (Russian Federation)*

EUROPE

States in this region were mostly recommended to ensure rights for certain minorities. In Eastern Europe, the focus was on Roma people, who are victims of poor living conditions, therefore access to water, electricity, housing and education needs to be ensured for members of this vulnerable group. In Western Europe, recommendations mainly concerned promoting the right to access water and improving living conditions of the Sami communities, ensuring they have access to land, water and resources.

2nd cycle - Germany - A/HRC/24/9 - 8 July 2013

Para 124.166. *Continue to promote the right to access to water* (Bangladesh)

2nd cycle - Slovakia - A/HRC/26/12 - 26 March 2014

Para 110.106. *Take measures to guarantee access to safe drinking water for all its population* (Chile)

2nd cycle - Slovenia - A/HRC/28/15 - 10 December 2014

Para 115.72. *Further improve the living conditions of Roma, especially ensuring access to running water, electricity and housing, as well as providing education, employment and health care for all members of the Roma community* (the former Yugoslav Republic of Macedonia)

1st cycle - Sweden - A/HRC/15/11 - 16 June 2010

Para 95.72. *Develop measures in order to ensure that affected Sami communities can take part and participate actively in consultations held between federal government and municipalities on issues related to land rights, water and resources* (Austria)

2nd cycle - Sweden - A/HRC/29/13 - 13 April 2015

Para 145.102. *Continue developing measures in order to ensure that affected Sami communities can participate actively in consultations on issues related to land rights, water and resources* (Austria)

MIDDLE EAST

Middle Eastern States received recommendations to continue efforts to guarantee access to water, by renovating necessary infrastructure and improving compliance with the human right to water. Countries emphasized the need to protect the Palestinian population and grant them fair access to basic services, including land and water. The situation of children, especially orphans, in the region was also acknowledged, reinforcing the need to prohibit mistreatment and provide access to safe drinking water and education.

2nd cycle - Afghanistan - A/HRC/26/4 - 4 April 2014

Para 136.41. *Advance in the coordination of the different government departments with competencies on the issue of water* (Spain);

2nd cycle - Iran - A/HRC/28/12 - 22 December 2014

Para 138.263. *Continue actions to improve compliance with the human right to water, under the framework of General Assembly resolution 64/292* (Bolivia (Plurinational State of))

2nd cycle - Iraq - A/HRC/28/14 - 12 December 2014

Para 127.177. *Proceed with implementing development projects, particularly those related to clean drinking water and health care* (Algeria)

2nd cycle - Israel - A/HRC/25/15 - 19 December 2013

Para 136.145. *Guarantee the Palestinian people access to all basic services, especially drinking water (Venezuela (Bolivarian Republic of));*

Para 136.205. *Effectively protect the Palestinian population in the occupied West Bank, including East Jerusalem, against any form of discrimination which impairs the equitable access to basic services or natural resources, including water and land, or else the equal enjoyment of fundamental rights and freedoms, particularly the right to equal protection before the law (Brazil)*

Para 136.227. *Implement measures to facilitate the renovation of the infrastructure for the supply of water in the occupied Arab territories (Uruguay);*

Para 136.235. *Ensure for the Palestinians of the occupied territories access without hindrance to their natural resources, particularly water resources, and implement in this context the obligations stemming from international humanitarian law (Algeria);*

1st cycle - Jordan - A/HRC/11/29 29 - May 2009

Para 35. *Continue to work to enhance access to water through efficient water resources management with the support and assistance of the international community (Bangladesh)*

2nd cycle - Jordan – A/HRC/25/9 - 6 January 2014

Para 118.125. *Continue its efforts to ensure access to water by improving water services (Bangladesh);*

2nd cycle - Kuwait - A/HRC/29/17 - 13 April 2015

Para 157.257. *Develop a comprehensive strategy for the environment in order to address the problems of water contamination and air pollution (Cyprus)*

2nd cycle - Kyrgyzstan - A/HRC/29/4 - 9 April 2015

118.27. *Develop a national strategy on water and support the establishment of regional instruments for the management of water and hydro-electrical energy to contribute to improve cooperation between the country and its neighbours (Spain)*

1st cycle - Tajikistan - A/HRC/19/3 - 12 December 2011

Para 88.65. *Prohibit corporal punishment of children in all settings and guarantee children's rights to adequate standard of living with special attention to orphans, providing them with access to safe drinking water and education (Malaysia)*

Para 90.28. *Prohibit corporal punishment of children in all settings and guarantee children's rights to adequate standard of living with special attention to orphans, providing them with access to safe drinking water and education (Slovenia)*

2nd cycle - Tajikistan - A/HRC/33/11 - 14 July 2016

Para 115.96. *Ensure access to clean drinking water is provided to the whole population (Maldives);*

Para 115.97. *Improve the population's access to safe drinking water (Algeria);*

2nd cycle - Uzbekistan - A/HRC/24/7 - 5 July 2013

Para 133.78. *Improve food security and access to drinking water for the whole population (Ecuador)*

1.2.3. RECOMMENDATIONS RELATED TO THE RIGHT TO SANITATION

AFRICA

States in the Africa region received recommendations mainly about poverty alleviation and the need to improve conditions in prisons, especially guaranteeing access to sanitation facilities. Recommending countries also expressed concern about the conditions of migrants and reiterated they should benefit from appropriate services, infrastructure and sanitation.

2nd cycle - Comoros - A/HRC/26/11 - 7 April 2014

Para 110.56. *Take measures to improve prison conditions, in particular in the areas of food and sanitation, and ensure that the rights of prisoners are respected in accordance with international law standards* (Mexico);

2nd cycle - Equatorial Guinea - A/HRC/27/13 - 7 July 2014

Para 134.79. *Make appropriate and transparent budget allocations for poverty alleviation, primary education, basic health care and sanitation, to realize fundamental economic and social rights, particularly in respect of the poorest, and fully account for all social spending* (Sweden)

1st cycle - Malawi - A/HRC/16/4 - 4 January 2011

Para 102.26. *Take measures to significantly improve prison conditions such as ... substandard sanitation ...* (Austria)

2nd cycle - Namibia - A/HRC/32/4 - 15 April 2016

Para 137159. *Improve health, sanitation and habitability conditions in prisons, including a decrease in overcrowding* (Spain)

1st cycle - Sao Tome & Principe - A/HRC/17/13 - 16 March 2011

Para 64.34. *Take effective measures to safeguard the basic rights of prisoners, provide them with adequate nutritious food and sanitation, and separate juvenile and adult prisoners* (Sweden)

Para 64.66. *Work with WHO and ILO to improve levels of sanitation, hygiene and maternal health care in order to reduce the spread of communicable diseases* (Maldives)

2nd cycle - South Africa - A/HRC/21/16 - 9 July 2012

Para 124.58. *Improve the detention conditions of undocumented migrants, ensure that they are not detained and deprived of their liberty for prolonged periods and that they have all services available, including access to health, psychological assistance, and appropriate physical infrastructure and sanitation* (Ecuador);

LATIN AMERICA AND CARIBBEAN

States in this region were issued recommendations mainly considering the treatment of vulnerable groups such as detainees, children (including those living on the streets), and indigenous peoples. Several recommendations addressed conditions in prisons, which should be improved, making sure individuals have sanitation facilities.

3rd cycle - Brazil - A/HRC/36/11 - 18 July 2017

Para 136.77. *Address ... sanitation ... in prisons* (South Africa)

Para 136.217. *Develop and implement policy to address child mortality, malnutrition, health, education and access to sanitation, of indigenous people* (South Africa)

2nd cycle - Costa Rica - A/HRC/27/12 - 7 July 2014

Para 128.73. *Improve prison conditions by ... improving sanitation, ...* (United States of America);
 Para 128.79. *Implement measures to improve sanitation conditions ... in administrative detention centres, especially those under the authority of migration authorities* (Mexico);
 Para 128.80. *Reform the penitentiary system in order to lessen prison overcrowding and ensure the necessary sanitary conditions for inmates, ...* (Russian Federation);
 Para 128.27. *Consider undertaking a comprehensive review of its normative framework on sanitation, with a view to ensuring the establishment of a coherent and comprehensive system for the collection, management, treatment and disposal of wastewater in order to prevent the contamination of rivers and other water streams* (Egypt);

2nd cycle - Guatemala - A/HRC/22/8 - 31 December 2012

Para 99.108. *Continue its efforts to facilitate and promote indigenous peoples' access to education, sanitation, property, and public positions* (Holy See);

2nd cycle - Uruguay - A/HRC/26/7 - 4 April 2014

Para 123.113. *Implement a comprehensive assistance programme for children living on the streets, ensuring that they have access to sanitation, education and social security* (State of Palestine);

ASIA-PACIFIC

Recommendations for this region focused on the need to improve sanitation facilities in rural areas and detention centres to promote better personal hygiene. They also addressed the Millennium Development Goals and cooperation with regional and international stakeholders.

2nd cycle - Democratic People's Republic of Korea - A/HRC/27/10 - 2 July 2014

Para 124.156. *Pay greater attention to the construction of sanitation facilities and housing constructions in rural areas* (China)
 Para 124.163. *Take concrete measures to further improve hygiene and sanitation in all parts of the country* (Kazakhstan);

2nd cycle - India - A/HRC/21/10 - 9 July 2012

Para 138.148. *Provide every possible support and assistance to the national project for rural health to increase the standard of nutrition and improve public health and to strengthen the relationship between health and indicators such as sanitation and personal hygiene;* (United Arab Emirates)

2nd cycle - Kiribati - A/HRC/29/5 - 13 April 2015

Para 84.84. *Strengthen implementation of the human right to sanitation at the national level as well as the promotion of hygiene* (Spain)

1st cycle - Laos - A/HRC/15/5 - 15 June 2010

Para 96.49. *Enhance cooperation at the regional and international levels with relevant stakeholders with a view to achieving relevant Millennium Development Goals, related to ... sanitation and environmental sustainability* (Malaysia)
 Para 98.34. *Take effective measures, assigning adequate resources, to ensure respect for international standards, notably concerning the food, health and sanitation of persons deprived of their liberty, and accept the assistance and cooperation of international actors such as the [International Committee of the Red Cross]* (Switzerland)

3rd cycle – Philippines - A/HRC/36/12 – 12 May 2017

Para 133.128. *Improve detention facilities, in particular to address overcrowding and sanitation problems* (Republic of Korea)

EUROPE

Similar to the recommendations on water and water and sanitation combined, the only recommendation exclusive to sanitation in the Eastern European region concerned Roma people and the risk of segregation. In Western Europe recommendations focused on the conditions of detention facilities. States were encouraged to reduce overcrowding and to provide adequate basic services, including sanitary facilities.

2nd cycle - Greece - A/HRC/33/7 - 8 July 2016

Para 134.148. *Continue efforts to ensure decent living conditions in all reception and detention centres for migrants and asylum seekers by providing adequate healthcare services, food, sanitary conditions and access to transportation* (Timor-Leste)

1st cycle - Ireland - A/HRC/19/9 - 21 December 2011

Para 106.39. *Continue its efforts to incorporate in-cell sanitation in all prison facilities* (United States)
Para 106.44. *Continue its effort to secure satisfactory sanitary facilities in Irish prisons, including in-cell sanitation, and to mitigate overcrowding* (Denmark)

2nd cycle - Slovakia - A/HRC/26/12 - 26 March 2014

Para 110.140. *Make sure to strike a balance between the need to give Roma a chance to own their own land and the risk of cemented segregation that might bring. Giving the Roma the chance to buy out the now, sometimes illegal, lands of settlements would create better possibilities also to claim the need for sanitation and municipal services* (Sweden)

MIDDLE EAST

Issues discussed by Recommending States for countries of the Middle East region include strengthened efforts to eradicate poverty, the needs of refugees, especially women and girls, and the eradication of disease through sanitation programmes.

2nd cycle - Afghanistan - A/HRC/26/4 - 4 April 2014

Para 136.31. *Guarantee that repatriated Afghan refugees, particularly women and girls, have adequate access to sanitation services, education, food, housing, freedom of movement and opportunities* (Uruguay);

2nd cycle - Iran - A/HRC/28/12 - 22 December 2014

Para 138.250. *Step up its employment stimulation measures and enhance access of the poor to basic services, including sanitation, health and education* (State of Palestine)

1st cycle - Kyrgyzstan - A/HRC/15/2 - 16 June 2010

Para 76.126. *Strengthen cooperation with the international community and organizations including the United Nations in building capacity and technical cooperation in crucial areas such as poverty eradication, increase access to sanitation, education, ...* (Malaysia)

2nd cycle - Pakistan - A/HRC/22/12 - 26 December 2012

Para 122.138. *Implement a sanitation programme in order to eradicate poliomyelitis and tuberculosis which remain public health problems* (Djibouti)

1.3. SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS TO SAFE DRINKING WATER AND SANITATION

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INTERNATIONAL HUMAN RIGHTS FRAMEWORK

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The origin of the mandate of the Special Rapporteur on the human rights to safe drinking water and sanitation (also referred to as the “Special Rapporteur on the HRWS”) lies with the appointment of an independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation. The mandate falls under the special procedures of the Human Rights Council, as part of the other thematic mandates. In 2016, the title was changed to reflect water and sanitation as two distinct rights. The current mandate holder, Mr. Léo Heller, was appointed in 2014 and was preceded by Ms. Catarina de Albuquerque from 2008.

Prior to the appointment of the independent expert, water and sanitation were dealt with by other special rapporteurs, such as the rapporteurs on the right to food, the right to health, adequate housing and the right to education.²³ With the Special Rapporteur on the HRWS, these issues now benefit from direct attention through this special mechanism. The rapporteur’s country visits, reports to the Human Rights Council and to the United Nations General Assembly, and generally its work on challenges, practices and monitoring of the HRWS provide key analysis, advice and information on issues related to those rights. Various actors, including governments, civil society organisations, national human rights institutions, and other national and international actors, can thereby better understand the scope of the HRWS, but can also contribute to the work of the Special Rapporteur through active engagement for example during country visits.²⁴

1.3.1. CREATION AND EXTENSION OF THE MANDATE

The mandate of the Special Rapporteur was preceded first by the appointment of an independent expert on the issues of human rights obligations related to the access to safe drinking water and sanitation (resolution 7/22). After the initial three-year mandate, the independent expert’s mandate was extended as Special Rapporteur on the human right to safe drinking water and sanitation (resolution 16/2). The mandate of the special rapporteur was subsequently extended each time at the end of each three-year period (see resolutions 24/18 and 33/10).

MANDATE

28 March 2008 - Human Rights Council - Resolution 7/22. Human rights and access to safe drinking water and sanitation

The Human Rights Council ... 2. Decides to appoint, for a period of three years, an independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, whose tasks will be:



Important role with national actors, incl. CSOs and NHRIs

(a) To develop a dialogue with Governments, the relevant United Nations bodies, the private sector, local authorities, national human rights institutions, civil society organizations and academic institutions, to identify, promote and exchange views on best practices related to access to safe drinking water and sanitation, and, in that regard, to prepare a compendium of best practices;

23 See e.g. Commission on Human Rights, Resolution 2001/25, 20 April 2001; CN.4/1999/49, para 67; and A/HRC/6/3, paras 9, 10 and 43.

24 For more information, see the official webpage, which contains the rapporteur’s recent activities, reports, etc.: <http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/SRWaterIndex.aspx>

(b) To advance the work by undertaking a study, in cooperation with and reflecting the views of Governments and relevant United Nations bodies, and in further cooperation with the private sector, local authorities, national human rights institutions, civil society organizations and academic institutions, on the further clarification of the content of human rights obligations, including non-discrimination obligations, in relation to access to safe drinking water and sanitation; ...

(d) To apply a gender perspective, including through the identification of gender-specific vulnerabilities; ...

30 September 2010 - Human Rights Council - Resolution 15/9. Human rights and access to safe drinking water and sanitation

The Human Rights Council ... 4. Calls upon the independent expert to continue to pursue her work regarding all aspects of her mandate, including to clarify further the content of human rights obligations, including non-discrimination obligations in relation to safe drinking water and sanitation, in coordination with States, United Nations bodies and agencies, and relevant stakeholders;

24 March 2011 - Human Rights Council - Resolution 16/2. The human right to safe drinking water and sanitation

The Human Rights Council ...

4. Decides to extend the mandate of the current mandate holder as a special rapporteur on the human right to safe drinking water and sanitation for a period of three years;

5. Encourages the Special Rapporteur, in fulfilling his or her mandate:

(a) To promote the full realization of the human right to safe drinking water and sanitation by, inter alia, continuing to give particular emphasis to practical solutions with regard to its implementation, in particular in the context of country missions, and following the criteria of availability, quality, physical accessibility, affordability and acceptability;

(b) To pay particular attention to persons belonging to vulnerable and marginalized groups, including by respecting the principles of non-discrimination and gender equality;

(c) To work on identifying challenges and obstacles to the full realization of the human right to safe drinking water and sanitation, as well as protection gaps thereto, and to continue to identify good practices and enabling factors in this regard;

(d) To monitor the way in which the human right to safe drinking water and sanitation is being realized throughout the world; ...



Resolution
extending
mandate

TECHNICAL ASSISTANCE

24 March 2011 - Human Rights Council - Resolution 16/2. The human right to safe drinking water and sanitation

The Human Rights Council ... 5. Encourages the Special Rapporteur, in fulfilling his or her mandate:

(i) To facilitate, including through engagement with relevant stakeholders, the provision of technical assistance in the area of the human right to safe drinking water and sanitation

27 September 2012 – Human Rights Council – Resolution 21/2. The human right to safe drinking water and sanitation²⁵

The Human Rights Council ... 17. Encourages the Special Rapporteur to facilitate, including through engagement with relevant stakeholders, the provision of technical assistance in the area of the implementation of the human right to safe drinking water and sanitation

25 September 2014 - Human Rights Council- Resolution 27/7. The human right to safe drinking water and sanitation

The Human Rights Council ... 13. Encourages the Special Rapporteur to facilitate, including through engagement with relevant stakeholders, the provision of technical assistance in the area of the implementation of the human right to safe drinking water and sanitation, to identify challenges and obstacles to the full realization of the human right to safe drinking water and sanitation, as well as protection gaps thereto, to continue to identify good practices and enabling

25 Same wording as 2013 HRC res 24/18 and 2016 HRC res 33/10.

factors in this regard, and to monitor the way in which the human right to safe drinking water and sanitation is being realized throughout the world

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MANDATE WITH RESPECT TO THE DEVELOPMENT GOALS

28 March 2008 - Human Rights Council - Resolution 7/22. Human rights and access to safe drinking water and sanitation

The Human Rights Council ... 2. Decides to appoint ... an independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, whose tasks will be: ... (c) To make recommendations that could help the realization of the Millennium Development Goals, in particular of Goal 7;

28 July 2010 - UN General Assembly - Resolution 64/292. The human right to water and sanitation

The General Assembly ... 3. encourages [the independent expert] to continue working on all aspects of her mandate and, in consultation with all relevant United Nations agencies, funds and programmes, to include in her report to the Assembly;²⁶ at its sixty-sixth session, the principal challenges related to the realization of the human right to safe and clean drinking water and sanitation and their impact on the achievement of the Millennium Development Goals.

24 March 2011 - Human Rights Council - Resolution 16/2. The human right to safe drinking water and sanitation

The Human Rights Council ... 5. Encourages the Special Rapporteur, in fulfilling his or her mandate: (f) To make recommendations for goals beyond the 2015 Millennium Development Goals process with special regard to the full realization of the human right to safe drinking water and sanitation, and also to continue to make more recommendations that could help the realization of the Millennium Development Goals, in particular of Goal 7, as appropriate;



27 September 2012 - Human Rights Council – Resolution 21/2. The human right to safe drinking water and sanitation

The Human Rights Council ... 14. Encourages the Special Rapporteur to continue to make contributions to the discussions on the United Nations development agenda beyond 2015, in particular on the integration of the human right to safe drinking water and sanitation

The work of the Special Rapporteur on the development goals resulted in the submission of annual reports integrating HRWS issues with the post-2015 development agenda, which were welcomed by both the General Assembly and the Human Rights Council. The table of reports can be found below.

27 September 2013 - Human Rights Council - Resolution 24/18. The human right to safe drinking water and sanitation

The Human Rights Council ...

7. Also welcomes the annual report of the Special Rapporteur submitted to the General Assembly on integrating non-discrimination and equality into the post-2015 development agenda for water, sanitation and hygiene, [A/67/270] takes note with appreciation of her proposal to integrate the progressive reduction and elimination of inequalities into the post-2015 agenda, and encourages further discussion on how to possibly integrate these issues in the elaboration of the post-2015 agenda; ...



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INTERNATIONAL HUMAN RIGHTS FRAMEWORK

26 See below for the expert's and rapporteur's reports to the General Assembly and Human Rights Council.

11. Welcomes the annual report of the Special Rapporteur submitted to the Human Rights Council on sustainability and non-retrogression in the realization of the human right to safe drinking water and sanitation, [A/HRC/24/44] and takes note of its potential relevance to the post-2015 development agenda; ...

17. Encourages the Special Rapporteur to continue to make contributions to the discussions on the United Nations post-2015 development agenda, with special regard to the integration of the elimination of inequalities and to the full realization and sustainability of the human right to safe drinking water and sanitation;



Emphasis on inequalities, full realisation and sustainability of the HRWS

18 December 2013 - UN General Assembly – Resolution 68/157. The human right to safe drinking water and sanitation

The General Assembly ... 4. Also welcomes the work of the Special Rapporteur on the human right to safe drinking water and sanitation, and takes note with appreciation in particular of her reports [A/67/270 and A/68/264] and her contributions to shaping the post-2015 development agenda and to progressively eliminating inequalities in access to safe drinking water and sanitation; ...

With the adoption of Agenda 2030 for Sustainable Development, the Human Rights Council specifically encouraged the Special Rapporteur to contribute to the Sustainable Development Goal on water, SDG 6.

29 September 2016 - Human Rights Council - Resolution 33/10. The human rights to safe drinking water and sanitation

The Human Rights Council ... 12. Encourages the Special Rapporteur to continue to contribute to the implementation of the 2030 Agenda for Sustainable Development, in particular Goal 6, with special regard to the full realization of the human rights to safe drinking water and sanitation for all;



Resolution extending mandate

1.3.2. REPORTING TO THE HUMAN RIGHTS COUNCIL AND THE UNITED NATIONS GENERAL ASSEMBLY

The independent expert was initially requested to report to the Human Rights Council, and later also to the UN General Assembly. The independent expert and the Special Rapporteur were asked in the subsequent resolutions on the human rights to water and sanitation to annually submit a report to the UNGA and to the Human Rights Council. A table summarizing the submitted reports is found below.

28 March 2008 - Human Rights Council - Resolution 7/22. Human rights and access to safe drinking water and sanitation

The Human Rights Council ... 2. Decides to appoint ... an independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, whose tasks will be: ... (f) To submit a report, including conclusions and recommendations, to the Council at its tenth session;

1 October 2009 - Human Rights Council - Resolution 12/8. Human rights and access to safe drinking water and sanitation

The Human Rights Council ... 7. Requests the independent expert to continue to report, on an annual basis, to the Council and to submit an annual report to the General Assembly;

28 September 2011 - Human Rights Council - Resolution 18/1. The human right to safe drinking water and sanitation

The Human Rights Council ... 11. Requests the Special Rapporteur to continue to report, on an annual basis, to the Human Rights Council and to submit an annual report to the General Assembly.

Table 2. Table of reports²⁷

	Human Rights Council	UN General Assembly
2017	A/HRC/36/45 Service regulation	A/72/127 Development cooperation
2016	A/HRC/33/49 Gender equality	A/71/302 Development cooperation
2015	A/HRC/30/39 Affordability of water and sanitation services	A/70/203 Different levels and types of services
2014	A/HRC/27/55 Common violations of the human rights to water and sanitation	A/69/213 Participation in the realization of the human rights to water and sanitation
	A/HRC/27/55/Add.3 Handbook for realizing the human right to safe drinking water and sanitation	
2013	A/HRC/24/44 Sustainability and non-retrogression	A/68/264 Wastewater management
2012	A/HRC/21/42 Stigma and the realization of the human rights to water and sanitation	A/67/270 Integrating non-discrimination and equality into post-2015 development agenda for water, sanitation and hygiene
2011	A/HRC/18/33 Planning for the realization of the rights to water and sanitation	A/66/255 Financing for the realization of the rights to water and sanitation
	A/HRC/18/33/Add.1 Good practices compilation	
2010	A/HRC/15/31 Human rights obligations related to non-State service provision	A/65/254 The MDGs and the human rights to water and sanitation
2009	A/HRC/12/24 Human rights obligations related to access to sanitation	
	A/HRC/10/6 Preliminary report laying out the mandate workplan	

27 The Special Rapporteur's reports to the Human Rights Council and General Assembly can be found here: <http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/AnnualReports.aspx>.

1.3.3. COOPERATION WITH GOVERNMENTS AND COUNTRY VISITS

The special rapporteur undertakes country missions whereby he/she examines the situation of water and sanitation at national level. The missions also offer an opportunity to identify good practices and formulate recommendations to the Government. In addition, as highlighted in the Manual of Operations of the Special Procedures of the Human Rights Council, "country visits by mandate-holders provide an opportunity to enhance awareness at the country, regional and international levels of the specific problems under consideration". They "allow for contact with and information gathering from victims, relatives of victims, witnesses, national human rights institutions, international and local [non-governmental organisations] and other members of civil society, the academic community, and officials of international agencies present in the country concerned."²⁸

Initially, the Human Rights Council called upon Governments to provide the mandate-holder with all the necessary information related to the mandate of the independent expert. The following 2009 resolution specifically called upon States to respond favourably to the mandate holder's requests for visits. From March 2011, in the Human Rights Council's resolutions on the right(s) to water and sanitation, Governments were further encouraged to also follow up *effectively* on the special rapporteur's recommendations. Table 2 informs the country visits' reports submitted to the Council.

28 March 2008 - Human Rights Council - Resolution 7/22. Human rights and access to safe drinking water and sanitation

The Human Rights Council ... 4. Calls upon all Governments to cooperate with the independent expert and invites them to share best practices with the independent expert, and to provide him/her with all the necessary information related to the mandate to enable him/her to fulfil the mandate;

1 October 2009 - Human Rights Council - Resolution 12/8. Human rights and access to safe drinking water and sanitation

The Human Rights Council ... 8. Notes with appreciation the cooperation extended to date to the independent expert by different actors, and calls upon all States to continue to cooperate with the independent expert in the discharge of her mandate and to respond favourably to her requests for information and visits;

24 March 2011 - Human Rights Council - Resolution 16/2. The human right to safe drinking water and sanitation²⁹

The Human Rights Council ... 6. Encourages all Governments to respond favourably to requests by the Special Rapporteur for visits and information, to follow up effectively on recommendations of the mandate holder and to make available information on measures taken in this regard;

28 Manual of Operations of the Special Procedures of the Human Rights Council, 2008, paras 52-74, http://www.ohchr.org/Documents/HRBodies/SP/Manual_Operations2008.pdf.

29 From September 2011, the Council resolutions encouraged Governments "to continue to respond" to the rapporteur's requests for visits. Such paragraph can be found in resolutions 18/1 (2011), 21/2 (2012), 24/18 (2013) 27/7 (2014), and 33/10 (2016).

Table 3. Country visits³⁰

	Country	Dates of the mission	Reports on country missions
2018	Mongolia	9 - 20 April 2018	Forthcoming (2018)
2017	India	27 October - 10 November 2017	Forthcoming (2018)
	Mexico	2-12 May 2017	A/HRC/36/45/Add.2
2016	Portugal	5-13 December 2016	A/HRC/36/45/Add.1
	El Salvador	11-18 May 2016	A/HRC/33/49/Add.1
2015	Botswana	9-17 November 2015	A/HRC/33/49/Add.3
	Tajikistan	4-12 August 2015	A/HRC/24/44/Add.3
2014	Kenya	22-28 July 2014	A/HRC/30/39/Add.2
	Jordan	11-16 March 2014	A/HRC/27/55/Add.2
2013	Brazil	9-19 December 2013	A/HRC/27/55/Add.1
	Thailand	1-8 February 2013	A/HRC/24/44/Add.3
2012	Kiribati	23-26 July 2012	A/HRC/24/44/Add.1
	Tuvalu	17-19 July 2012	A/HRC/24/44/Add.2
	Uruguay	13-17 February 2012	A/HRC/21/42/Add.2
2011	Senegal	14-21 November 2011	A/HRC/21/42/Add.1
	Namibia	4-11 July 2011	A/HRC/21/42/Add.3
	United States of America	22 February - 4 March 2011	A/HRC/18/33/Add.4
2010	Japan	20-28 July 2010	A/HRC/18/33/Add.3
	Slovenia	24-28 May 2010	A/HRC/18/33/Add.2
2009	Bangladesh	3-10 December 2009	A/HRC/15/55
	Egypt	21-28 June 2009	A/HRC/15/31/Add.3
	Costa Rica	19-27 March 2009	A/HRC/12/24/Add.1

30 All reports and information on the Special Rapporteur's country visits are available online, here: <http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/CountryVisits.aspx> .

1.4. NATIONAL HUMAN RIGHTS INSTITUTIONS AS NATIONAL MECHANISMS WITH INTERNATIONAL RECOGNITION

More than 100 countries currently have established National Human Rights Institutions (NHRIs) in the form of Human Rights Commissions, Ombudspersons or Institutes charged with investigating, promoting and protecting human rights. A core function of these institutions is to monitor the implementation of a nation's human rights obligations and commitments and make recommendations for improvement. NHRIs are also mandated to investigate into situations, address grievances, and, depending on their mandates, many NHRIs may also handle complaints alleging violations of national law. Seen in this light, NHRIs can provide a core function in contributing to the implementation of a human rights based water governance and providing civil society with an avenue to improve their water and sanitation related human rights. NHRIs may be in a unique position to potentially play a role in securing the implementation and protection of the human rights to water and sanitation, as well as other water related human rights.

A major contribution in the process of enhancing the role of NHRIs in relation to the HRWS is the adoption of the General Comment No. 15 on the right to water adopted by the UN Committee on Economic, Social and Cultural Rights. The document explicitly refers to national ombudsmen, human rights commissions and similar institutions in stating that they should be permitted to address violations of the right to water.³¹ Against this backdrop, the present chapter highlights relevant extracts from key documents which inform on the history of NHRIs and on their role in the international human rights system, as well as on their importance for the realisation of the HRWS.

1.4.1. ESTABLISHMENT OF NATIONAL HUMAN RIGHTS INSTITUTIONS AND THE PARIS PRINCIPLES

The idea of national human rights institutions was already discussed at the United Nations (UN) in the early years of the organisation, where in 1946, Members of the UN were "invited to consider the desirability of establishing information groups or local human rights committees within their respective countries to collaboration with them in furthering the work of the Commission on Human Rights".³² The matter gradually led to the recognition of the need of such institutions and their added value in supporting the implementation of international human rights standards.³³ Over the years their involvement in international human rights institutions increased as demonstrated in the extracts below.³⁴

7 March 1990 - Commission on Human Rights - Resolution 1990/73. National institution for the promotion and protection of human rights

The Commission on Human Rights ... 3. Requests the Secretary-General to convene a workshop ... with the participation of national and regional institutions for the promotion and protection of human rights, to review, inter alia, their co-operation with international institutions ...;

31 CESCR, General Comment No. 15, para 55.

32 21 June 1946 - ECOSOC Resolution 9(II) - Commission on Human Rights, para 5.

33 See e.g. ECOSOC resolutions 772 B (XXX) from 25 July 1960 and 888 F (XXXIV) of 24 July 1962; and UN General Assembly Resolution 32/123 of 16 December 1977. The formation of "local human rights committees" was suggested in a resolution in 1960 and, in 1977, it was recommended through the UNGA resolution, on the observance of the thirtieth anniversary of the Universal Declaration of Human Rights, that a special seminar be held the following year on the subject of national and local institutions for the promotion and protection of human rights. Seminar on national and local institutions for the promotion and protection of human rights, Geneva 18-29 September 1978, ST/HR/SER.A/2, https://digitallibrary.un.org/record/731550/files/ST_HR_SER_A_2-EN.pdf; see also UNGA Resolution 33/46 of 14 December 1978.

34 For more information, see OHCHR, Fact Sheet No. 19, National Institutions for the Promotion and Protection of Human Rights, 1994, available at: <http://www.ohchr.org/Documents/Publications/FactSheet19en.pdf>.

The Workshop requested by the Commission was convened in Paris in October 1991, a decision welcomed by the Commission on Human Rights (resolution 1991/27) and the UN General Assembly (resolution 46/124). It led to the adoption by NHRIs of the “Principles relating to the status of national institutions”, later called “Paris Principles”. The Principles, which define minimum conditions that NHRIs must meet to be considered as legitimate, were then endorsed by the Commission on Human Rights and the UN General Assembly as seen below.

3 March 1992 - Commission on Human Rights - Resolution 1992/54. National institutions for the promotion and protection of human rights

The Commission on Human Rights ...

10. Welcomes the guidance provided by the recommendations contained in the report of the International Workshop and in particular the principles relating to the status of commissions and their advisory role;

11. Decides to rename those principles the “Principles relating to the status of national institutions” and to transmit those Principles, annexed to the present resolution, to the General Assembly, through the Economic and Social Council, for adoption;

20 December 1993 - UN General Assembly - Resolution 48/121. World Conference on Human Rights

The General Assembly ...

2. Endorses the Vienna Declaration and Programme of Action, adopted by the Conference on 25 June 1993

25 June 1993 - Vienna Declaration and Programme of Action, A/CONF.157/23

“36. The World Conference on Human Rights reaffirms the important and constructive role played by national institutions for the promotion and protection of human rights ... The World Conference on Human Rights encourages the establishment and strengthening of national institutions, having regard to the “Principles relating to the status of national institutions” ...”



The Vienna Declaration, which was recalled by numerous UNGA resolutions on national institutions, highlighted the importance of NHRIs, and directly referred to the Paris Principles in encouraging their establishment.

20 December 1993 - UN General Assembly - Resolution 48/134. National institutions for the promotion and protection of human rights

The General Assembly ... 11. Welcomes ... the Principles relating to the status of national institutions, annexed to the present resolution

ANNEX Principles relating to the status of national institutions - “Paris Principles” “Competence and responsibilities”

2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.

3. A national institution shall, inter alia, have the following responsibilities:

(a) To submit to the Government, Parliament and any other competent body, ... opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; ... these ... shall relate to the following areas:

(i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend



This can include reviewing a national water law, health law, etc.

the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;

(ii) Any situation of violation of human rights which it decides to take up;

(iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;

(iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;

(b) To promote and ensure the harmonization of national legislation regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;

(c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;

(d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;

(e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights;

(f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;

(g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs. ...

Composition and guarantees of independence and pluralism

2. ... The purpose of [adequate] funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. ...

Additional Principles concerning the status of commissions with quasi-judicial competence

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. ..."

1.4.2. GLOBAL ALLIANCE OF NATIONAL HUMAN RIGHTS INSTITUTIONS

In 1993, the Global Alliance of National Human Rights Institutions (GANHRI), then known as International Coordination Committee of national institutions for the promotion and protection of human rights (ICC), begins its activities as an international association of NHRIs from all around the world. It promotes and strengthens NHRIs to be in accordance with the Paris Principles and provides leadership in the promotion and protection of human rights. GANHRI convenes international conferences of NHRIs with a focus on different specific human rights-related issues to promote the exchange of good practices among NHRIs and provide guidance. Some of the themes include: business and human rights in 2010, women's rights in 2012, or the 2030 Agenda for Sustainable Development, in 2015.

ESTABLISHMENT OF ICC/GANHRI

7 March 2017 - Global Alliance of National Human Rights Institutions, GANHRI - Statute "Preamble"

The Global Alliance of National Human Rights Institutions (GANHRI), formerly known as International Coordinating Committee of national institutions for the promotion and protection of human rights (ICC), began its activities in 1993, when at their first international conference held in Tunis, National Human Rights Institutions (NHRIs) established the ICC with the aim to coordinate the activities of the NHRIs at the global level...

Article 5 Objective

GANHRI is an international association of NHRIs which promotes and strengthens NHRIs to operate with the Paris Principles and provides leadership in the promotion and protection of human rights...

Article 7 Functions and Principles

(1) The functions of GANHRI are:

- (a) To coordinate at an international level the activities of NHRIs established in conformity with the Paris Principles ...
- (b) To promote the establishment and strengthening of NHRIs in conformity with the Paris Principles ...
- (c) To undertake such other functions as are referred to it by its voting members...

Article 15 Periodic re-accreditation

All NHRIs that hold 'A' status are subject to re-accreditation on a five year cyclical basis ...



There are two main levels of accreditation; 'A' status: compliance with the Paris Principles; and 'B' status: not fully in compliance with the Paris Principles.

Article 31.1

For the purpose of ensuring a fair balance of regional representation on GANHRI the following regions are determined and the following Regional Networks are recognized as representing the regions:

- Africa: Network of African National Human Rights Institutions (NANHRI)
- The Americas: Network of National Human Rights Institutions of the Americas
- Asia-Pacific: Asia-Pacific Forum of National Human Rights Institution (APF)
- Europe: European Network of National Human Rights Institutions (ENNHRI)"

4 March 1994 - Commission on Human Rights - Resolution 1994/54. National institutions for the promotion and protection of human rights

The Commission on Human Rights, ... 7. Welcomes the decision taken by national institutions ... to establish a Coordinating Committee which will hold meetings under the auspices of and in cooperation with the Centre for Human Rights and, in close cooperation with the Centre for Human Rights, will assist national institutions to follow up the relevant resolutions and recommendations concerning the strengthening of national institutions ...

MERIDA DECLARATION ON THE ROLE OF NHRIS WITH RESPECT TO THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT

10 October 2015 - International Conference of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights - Merida Declaration - The Role of National Human Rights Institutions in implementing the 2030 Agenda for Sustainable Development. Adopted at the Twelfth International Conference

15. Participants emphasised that NHRIs in all regions are already addressing issues of crucial importance to the Agenda [for Sustainable Development] in their regular work. Strengthening NHRIs in all regions, including their technical and financial independence, is thus an effective means of promoting the realisation of the Agenda. NHRIs are uniquely placed to play a bridging role between stakeholders and promote transparent, participatory and inclusive national processes of implementation and monitoring. Participants encouraged NHRIs in particular to address all forms of exclusion, poverty and to prioritise and mainstream the human rights of women and girls and gender equality in their work. ...

17. They further encouraged ICC Regional Networks and individual NHRIs, in line with their mandates under the Paris Principles, to collaborate in mutual capacity building and sharing of experiences, and to consider the practical functions they can assume to contribute to a human rights-based approach to implementation of the Agenda.

1.4.2. NHRIS AND THE INTERNATIONAL HUMAN RIGHTS SYSTEM

Commission on Human Rights resolution 2005/74 and Human Rights Council resolution 5/1 put forth the participation of NHRIs in international human rights mechanisms. Over a decade later, the UN General Assembly adopted a landmark resolution (70/163) whereby for the first time UN mechanisms and processes were encouraged to enhance participation of NHRIs and allow for their contributions. The expertise and evidence based information of NHRIs of the national human rights situation in their countries enables those institutions to valuably contribute to those international and regional mechanisms through the monitoring of various human rights, including the HRWS, and through their various responsibilities enunciated in the Paris Principles above.

20 April 2005 - Commission on Human Rights - Resolution 2005/74. National institutions for the promotion and protection of human rights

The Commission on Human Rights ... 10. ... welcomes the practice of national institutions and coordinating committees of such institutions that conform with the Paris Principles of participating ... in meetings of the Commission and its subsidiary bodies

11. ... decides to request the Chairperson of the sixty-first session ..., to finalize ... the modalities for: (a) Permitting national institutions that are accredited by the Accreditation Subcommittee of the International Coordinating Committee of National Institutions under the auspices of the Office of the High Commissioner, and coordinating committees of such institutions, to speak ... under all items of the Commission's agenda, ... to allocate dedicated seating to national institutions for this purpose, and supporting their engagement with all the subsidiary bodies of the Commission; ...

18 June 2007 - Human Rights Council - Resolution 5/1. Institution-Building of the United Nations Human Rights Council

The Human Rights Council ... 1. Adopts the draft text entitled "United Nations Human Rights Council: Institution Building", as contained in the annex to the present resolution, including its appendix(ces);

Annex

I. Universal Periodic Review: 3. *The universal periodic review should: ... (m) Ensure the participation of all relevant stakeholders, including ... national human rights institutions ...*

III. Human Rights Council Advisory Committee: 83. *... national human rights institutions ... shall be entitled to participate in the work of the Advisory Committee ...*

IV. Complaint procedure: 88. *National human rights institutions, established and operating under the Principles Relating to the Status of National Institutions (the Paris Principles), in particular in regard to quasi-judicial competence, may serve as effective means of addressing individual human rights violations.*

17 December 2015 - UN General Assembly - Resolution - 70/163. National institutions for the promotion and protection of human rights

The General Assembly ... 16. Encourages all relevant United Nations mechanisms and processes, in accordance with their respective mandates ... to further enhance the participation of national human rights institutions compliant with the Paris Principles and to allow for their contribution to these United Nations mechanisms and processes ...

1.4.3. NHRIS AND RESOLUTIONS ON THE HUMAN RIGHTS TO WATER AND SANITATION

Reference to NHRIs can be found also in Human Rights Council resolutions which address water and sanitation. In particular, the then independent expert on the issues of human rights obligations related to access to water and sanitation was called upon to undertake several of its tasks in collaboration with NHRIs. In addition, the Council called upon States to promote the ability of national human rights institutions to work on the “right to safe drinking water and sanitation”. NHRIs have been involved already in the discussions around human rights obligations related to the rights to water and sanitation, which led namely to the establishment of the Independent Expert on the HRWS.³⁵ They also participate in UN treaty body process and can support the development of international human rights norms and standards, such as in participating in drafting processes of key instruments.³⁶



See section 1.3. on the Special Rapporteur on the HRWS

28 March 2008 - Human Rights Council - Resolution 7/22. Human rights and access to safe drinking water and sanitation

The Human Rights Council ... 2. Decides to appoint, for a period of three years, an independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, whose tasks will be:

(a) To develop a dialogue with ... national human rights institutions ... to identify, promote and exchange views on best practices related to access to safe drinking water and sanitation, and, in that regard, to prepare a compendium of best practices;

(b) To advance the work by undertaking a study ... in further cooperation with ... national human rights institutions ... on the further clarification of the content of human rights obligations, including non-discrimination obligations, in relation to access to safe drinking water and sanitation; ...

(e) To work in close coordination ... with other special procedures and subsidiary organs of the Council, relevant United Nations bodies and the treaty bodies, and taking into account the views of other stakeholders, including ... national human rights institutions ...;

25 September 2014 - Human Rights Council - Resolution 27/7. The human right to safe drinking water and sanitation

The Human Rights Council ... 11. Calls upon States: ... (e) To promote the ability of human rights institutions and other relevant bodies to identify violations of the right to safe drinking water and sanitation, to receive complaints of violations of the right to safe drinking water and sanitation, and to assist with access to effective remedies for violations of the right to safe drinking water and sanitation

35 NHRIs have namely contributed to the consultation process on the study on human rights obligations related to equitable access to safe drinking water and sanitation. See A/HRC/6/3.

36 For more information on NHRIs' participation in UN treaty processes, see GANHRI, National Human Rights Institutions and United Nations Treaty Bodies, GANHRI Background Paper, May 2016, <https://nhri.ohchr.org/EN/HRSTreatyBodies/Annual%20Meeting%20of%20Chairpersons%20of%20Human%20Rights%20Tre/GANHRI%20background%20paper%20FINAL.pdf>.

1.4.4. NHRI INITIATIVE FOR GOOD WATER GOVERNANCE

On 10 October 2013, the Deputy Commissioner for Fundamental Rights of Hungary (Hungarian NHRI) together with WaterLex organised a side event at the Budapest Water Summit devoted to the role of NHRIs in water governance. At this occasion, the Hungarian Parliamentary Commissioner for Future Generations in cooperation with WaterLex launched the NHRI Initiative for Good Water Governance (NHRI Water Initiative).³⁷

2013, Invitation letter to NHRIs from Mr. Marcel Szabó: National Human Rights Initiative for good water governance

The [initiative] envisages a more prominent role of NHRIs in relation to the right to water, and as a result in broader water governance. ... The objectives of this initiative are twofold. First, the aim is to create a network of NHRIs that can exchange experiences and best practices with each other, thus establish a community of practice in relation to the right to water. Second, it is envisaged to support and build the capacity of NHRIs to strengthen their role in ensuring a human rights based approach to water governance.

Relevant publications on NHRIs and their work on water governance-related human rights:

WaterLex, *National Human Rights Institutions and Water Governance: Compilation of Good Practices*, WaterLex: Geneva, 2014, 162p: https://www.waterlex.org/new/wp-content/uploads/2015/02/WAT-Compilation_online.pdf.

WaterLex and Danish Institute for Human Rights, *National Human Rights Institutions' Roles in Achieving Human Rights-Based Water Governance: Training Manual*, WaterLex: Geneva, 2015, 199p: <https://www.waterlex.org/new/wp-content/uploads/2016/01/NHRI-Training-Manual-January-2016.pdf>.

³⁷ WaterLex acts as the secretariat for the NHRI Water Initiative since 2013. Through the Initiative, WaterLex provides capacity-building activities to NHRIs, develop tools and jointly implement projects on water governance-related human rights.

Examples of NHRIs' work on the HRWS³⁸

The New Zealand Human Rights Commission published in 2012 a report on *Human Rights and Water*. It advocates for the importance of the human rights approach to water and assesses the right to water situation in the country in accordance with key human rights criteria and principles. Among other issues, it also discussed the right to water in relation to indigenous peoples' rights.

The National Human Rights Commission of India received many complaints pertaining to issues relating to water. It intervened in many cases on the HRWS and recommended necessary relief.

The Hungarian Ombudsman for Future Generations investigated the impact of a measure which turned off or reduced water pressure in public wells on ground of unduly high consumption, illegal discharge and wastage. The provision affected mainly the Roma population. The Ombudsman launched an investigation suspecting the violation of the rights to safe drinking water, human dignity and the right to equal treatment.

The Defensor del pueblo of Argentina has a strong environmental focus and deals with water and sanitation as part of the environmental theme. The Argentinian NHRI has been taking a very active role in promoting human rights in water basin management. It has experience in intervening in complaints on insufficient ecological flows, water pollution, inadequate water management, land use changes, etc. To address such issues, the institution uses strategies, which allow to understand the social, ecological and legal systems that interact with them.

In its special study report on human rights in Namibia, the ombudsman of Namibia explored the situation of the HRWS. The institution namely conducted household surveys, formulated several recommendations for the mobilisation and implementation of water supply and sanitation policies in the country.

38 See more in the WaterLex 2014 publication, National Human Rights Institutions and Water Governance: Compilation of Good Practices.

CHAPTER 2

NON-BINDING INSTRUMENTS

Soft law has played an important role in the recognition of the human right(s) to water and sanitation. Even if such documents are not legally binding on States, several guidelines, rules, declarations and resolutions have contributed to the evolution, recognition and implementation of the human rights to water and sanitation. The declarations and resolutions, in particular, are important, since they can exert a political effect on States and improve implementation of certain rights, including the HRWS.

In 2010, the United Nations (UN) General Assembly passed resolution A/RES/64/292, explicitly recognising for the first time the human right to water and sanitation and acknowledging that clean drinking water and sanitation are essential for the realisation of all human rights. In the same year the Human Rights Council approved unanimously resolution A/HRC/RES/15/9, reinforcing the existence of HRWS and its recognition at international level. In this section, the reader may further observe how the recognition of those rights evolved over the years through soft law instruments. Water and sanitation received little attention in the beginning of the twentieth century, but as issues around water availability and water use efficiency arose, access to water and sanitation started being discussed increasingly in international conferences and being entailed explicitly in soft law related to various themes, such as the environment, development or children's rights. The human right to water was already captured in the Mar del Plata conference report, which mentioned separately access to sanitation in the Plan of Action. Eventually, the international fora began approaching access to both water and sanitation as (a) human right(s). Since the UN General Assembly (UNGA) 2015 resolution 70/169, safe drinking water and sanitation are addressed as two distinct but closely related human rights.

The other sections of this chapter contain non-binding documents that establish rules and guidelines to follow in certain situations, such as for the treatment of prisoners, internal displacement, etc., as well as information on United Nations campaigns on water and sanitation, and other relevant resolutions, mainly those adopted by the Inter-Parliamentary Union.

2.1. DECLARATIONS ADOPTED BY THE UNITED NATIONS GENERAL ASSEMBLY

UNIVERSAL DECLARATION OF HUMAN RIGHTS (1948)

Although the Universal Declaration of Human Rights is not a legally binding instrument, it is a fundamental document for human rights. Together with the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, it forms the International Bill of Human Rights. Chapter 1 of this handbook contains extracts from international human rights treaties which comprise rights that are similar to those found in the Universal Declaration, linking them to the HRWS.

Article 3: *Everyone has the right to life, liberty and security of person.*

Article 5: *No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*

Article 23(1): *Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.*

Article 25: *Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services...*

Article 26(1): *Everyone has the right to education. ...*

UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (2006)

Explicit mention of sanitation and traditionally used waters

Article 21: *1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security. 2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.*

Article 25: *Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.*

Other relevant clauses

Article 3: *Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*

Article 10: *Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.*

Article 17(1): *Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.*

Article 18: *Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.*

Article 19: *States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.*

Article 22(1): *Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.*

Article 23: *Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.*



See also chapter 5 on the ILO which includes a legally binding instrument on indigenous peoples' rights; as well as chapter 7 on the inter-American system, where indigenous peoples' rights are addressed in regional case law.



See UN General Assembly resolution 54/175 on the right to development, in section 2.4. below, which reaffirms that the right to water, among others, is fundamental to the realisation of the right to development.

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Article 24(2): *Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.*

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Article 26: *1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired. 3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.*

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Article 27: *States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.*

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Article 28: *1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent. 2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.*

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Article 29: *1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination. 2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.*

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2.2. THEMATIC STANDARDS AND GUIDING PRINCIPLES IN NON-BINDING INSTRUMENTS

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GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT, SUBMITTED TO THE COMMISSION ON HUMAN RIGHTS (1998)

Principle 18:

1. *All internally displaced persons have the right to an adequate standard of living.*
2. *At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to: (a) Essential food and potable water; ... (d) Essential medical services and sanitation.*
3. *Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.*

UNITED NATIONS PRINCIPLES FOR OLDER PERSONS (1991)

[Independence] Principle 1: *Older persons should have access to adequate food, water, shelter, clothing and health care through the provision of income, family and community support and self-help.*

UNITED NATIONS RULES FOR THE PROTECTION OF JUVENILES DEPRIVED OF THEIR LIBERTY (1990)

Para 34: *Sanitary installations should be so located and of a sufficient standard to enable every juvenile to comply, as required, with their physical needs in privacy and in a clean and decent manner.*

Para 37: *... Clean drinking water should be available to every juvenile at any time.*

STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (1955)

Para 12: *The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.*

Para 15: *Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.*

Para 20(2): *Drinking water shall be available to every prisoner whenever he needs it.*

Para 26(1): *The medical officer shall regularly inspect and advise the director upon: ... (b) The hygiene and cleanliness of the institution and the prisoners; (c) The sanitation, heating, lighting and ventilation of the institution; ...*

FAO VOLUNTARY GUIDELINES TO SUPPORT THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD IN THE CONTEXT OF NATIONAL SECURITY (2004)

Economic development policies - Guideline 2: ... 2.6. *Where poverty and hunger are predominantly rural, States should focus on sustainable agricultural and rural development through measures to improve access to land, water ... conserve and protect natural resources, ...*

Strategies - Guideline 3: ... 3.6.: *In their poverty reduction strategies, States should also give priority to providing basic services for the poorest, and investing in human resources by ensuring access to ... clean drinking water, adequate sanitation ...*

Access to resources and assets - Guideline 8: 8.1. *States should facilitate sustainable, non-discriminatory and secure access and utilization of resources consistent with their national law and with international law and protect the assets that are important for people's livelihoods. States should respect and protect the rights of individuals with respect to resources such as ... water... without any discrimination. ... 8.6. States should ... provide women with secure and equal access to, control over, and benefits from productive resources, including ... water.*

Water - Guideline 8C: 8.11. *Bearing in mind that access to water in sufficient quantity and quality for all is fundamental for life and health, States should strive to improve access to, and promote sustainable use of, water resources and their allocation among users giving due regard to efficiency and the satisfaction of basic human needs in an equitable manner and that balances the requirement of preserving or restoring the functioning of ecosystems with domestic, industrial and agricultural needs, including safeguarding drinking-water quality.*

Sustainability - Guideline 8E: 8.13. *States should consider specific national policies, legal instruments and supporting mechanisms to protect ecological sustainability and the carrying capacity of ecosystems to ensure the possibility for increased, sustainable food production for present and future generations, prevent water pollution, protect the fertility of the soil, and promote the sustainable management of fisheries and forestry.*

Safety nets - Guideline 14: ... 14.6. *States should consider accompanying food assistance in safety net schemes with complementary activities to maximize benefits towards ensuring people's access to and utilization of adequate food. Essential complementary activities include access to clean water and sanitation, health care interventions and nutrition education activities. ...*

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2.3. WATER AND SANITATION IN INTERNATIONAL THEMATIC CONFERENCES

DECLARATION OF THE UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT (STOCKHOLM DECLARATION) (1972)



The international community starts paying particular attention to water.

Principle 1: *Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being...*

Principle 2: *The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.*

MAR DEL PLATA UN WATER CONFERENCE (1977)

The UN Water Conference in Mar del Plata was held from 14 to 25 March 1977. The conference report contains a number of resolutions and recommendations, one of which explicitly refers to the human right to water. It is one of the first documents of this level to do so. Already two years later, water and sanitation were explicitly referenced in a legally binding human rights treaty, the Convention on the Elimination of All Forms of Discrimination against Women, found in chapter 1 of this handbook.

P. 66. *The United Nations Water Conference, ... Considering that: (a) All peoples, whatever their stage of development and their social and economic conditions, have the right to have access to drinking water in quantities and of a quality equal to their basic needs; ...*



Access to drinking water, in sufficient quantity and of quality, as a human right. Mentions of access to sanitation in the Plan of Action.

Recommends:

(a) That where human needs have not yet been satisfied, national development policies and plans should give priority to the supplying of drinking water for the entire population and to the final disposal of waste water; and should also actively involve, encourage and support efforts being undertaken by local voluntary organization ...

(b) That Governments reaffirm their commitment made at Habitat to "adopt programmes with realistic standards for quality and quantity to provide water for urban and rural areas by 1990, if possible";

(c) That with a view to achieving these ends, the nations which need to develop their systems for providing drinking water and sanitation should prepare for 1980 programmes and plans to provide coverage for populations and to expand and maintain existing systems; institutional development and human resources utilization; and identification of the resources which are found to be necessary...

(g) That the Plan of Action formulated below should be implemented in a co-ordinated manner at the national and international levels

P. 68. Plan of Action

A. Priority areas for action 1. Action must focus on promoting ... (b) commitment of national Governments to provide all people with water of safe quality and adequate quantity and basic sanitary facilities by 1990, according priority to the poor and less privileged and to water scarce areas; and (c) larger allocation to this sector from the total resources available for general economic and social development. ...

B. Recommendations for action at national level 5. Each country should establish goals for 1990 which match as far as Possible the global targets adopted. In order to attain these goals, each country should: (a) Develop national plans and programmes for community water supply and sanitation ...

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NON-BINDING INSTRUMENTS

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WORLD DECLARATION ON THE SURVIVAL, PROTECTION AND DEVELOPMENT OF CHILDREN, ADOPTED AT THE WORLD SUMMIT FOR CHILDREN (1990)

The commitment ... 20. We have agreed that we will act together, in international co-operation, as well as in our respective countries. We now commit ourselves to the following 10-point programme to protect the rights of children and to improve their lives ... (2) We will work for a solid effort of national and international action to enhance children's health, to promote pre-natal care and to lower infant and child mortality in all countries and among all peoples. We will promote the provision of clean water in all communities for all their children, as well as universal access to sanitation.

INTERNATIONAL CONFERENCE ON WATER AND SUSTAINABLE DEVELOPMENT - DUBLIN STATEMENT ON WATER AND SUSTAINABLE DEVELOPMENT (1992)

 Affordability as part of the right to access clean water and sanitation

Principle 4 - Water has an economic value in all its competing uses and should be recognised as an economic good. Within this principle, it is vital to recognize first the basic right of all human beings to have access to clean water and sanitation at an affordable price. ...

RIO DECLARATION ON ENVIRONMENT AND DEVELOPMENT AND AGENDA 21 (1992)

The Rio Declaration contains principles on environmental matters, highlighting the importance of addressing environmental, economic and social development jointly. Principle 22 also highlights the role of indigenous peoples in environmental management. Agenda 21 was approved during the Rio summit. Different chapters of the Agenda discuss water issues in relation to various themes. Chapter 18 dedicates a programme area to drinking-water supply and sanitation (D).

18.47. ... The commonly agreed premise was that "all peoples, whatever their stage of development and their social economic conditions, have the right to have access to drinking water in quantities and of a quality equal to their basic needs". ...

VIENNA DECLARATION AND PROGRAMME OF ACTION (1993)

Item 4. Rights of the child: ... By means of these national action plans and through international efforts, particular priority should be placed on reducing infant and maternal mortality rates, reducing malnutrition and illiteracy rates and providing access to safe drinking water and to basic education.

 This Declaration also suggested the creation of a High Commissioner for Human Rights.

PROGRAMME OF ACTION OF THE CAIRO INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT (1994)

Principle 2 Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature. People are the most important and valuable resource of any nation. Countries should ensure that all individuals are given the opportunity to make the most of their potential. They have the right to an adequate standard of living for themselves and their families, including adequate food, clothing, housing, water and sanitation.

INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT PROGRAMME OF ACTION (1994)

Principle 2. ... Countries should ensure that all individuals are given the opportunity to make the most of their potential. They have the right to an adequate standard of living for themselves and their families, including adequate ... water and sanitation.

JOHANNESBURG DECLARATION ON SUSTAINABLE DEVELOPMENT - WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT (2002)

In addition to this political declaration, a Plan of Implementation of the World Summit on Sustainable Development was adopted.

18. We welcome the focus of the Johannesburg Summit on the indivisibility of human dignity and are resolved, through decisions on targets, timetables and partnerships, to speedily increase access to such basic requirements as clean water, sanitation, ...

OUTCOME DOCUMENT "THE FUTURE WE WANT" - UNITED NATIONS CONFERENCE ON SUSTAINABLE DEVELOPMENT (2012)

119. We recognize that water is at the core of sustainable development as it is closely linked to a number of key global challenges. We therefore reiterate the importance of integrating water in sustainable development and underline the critical importance of water and sanitation within the three dimensions of sustainable development. ...

121. We reaffirm our commitments regarding the human right to safe drinking water and sanitation, to be progressively realized for our populations with full respect for national sovereignty. We also highlight our commitment to the 2005- 2015 International Decade for Action, "Water for Life". ...

TRANSFORMING OUR WORLD: THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT (2015)



Agenda 2030 explicitly mentions the HRWS

7. A world where we reaffirm our commitments regarding the human right to safe drinking water and sanitation and where there is improved hygiene; and where food is sufficient, safe, affordable and nutritious. ...

10. The new Agenda is guided by the purposes and principles of the Charter of the United Nations, including full respect for international law. It is grounded in the Universal Declaration of Human Rights, international human rights treaties, the Millennium Declaration and the 2005 World Summit Outcome. It is informed by other instruments such as the Declaration on the Right to Development. ...

33. We recognize that social and economic development depends on the sustainable management of our planet's natural resources. We are therefore determined to conserve and sustainably use oceans and seas, freshwater resources, as well as forests, mountains and drylands and to protect biodiversity, ecosystems and wildlife. We are also determined to promote sustainable tourism, to tackle water scarcity and water pollution, to strengthen cooperation on desertification, dust storms, land degradation and drought and to promote resilience and disaster risk reduction. ...

Goal 6. Ensure availability and sustainable management of water and sanitation for all

2.4. RESOLUTIONS ADOPTED BY THE UN GENERAL ASSEMBLY AND THE HUMAN RIGHTS COUNCIL³⁹

17 December 1999 - UN General Assembly - Resolution 54/175. The right to development⁴⁰

The General Assembly ...

11. Reaffirms that, in the full realization of the right to development, inter alia: a) The rights to food and clean water are fundamental human rights and their promotion constitutes a moral imperative both for national Governments and for the international community; ...

27 November 2006 - Human Rights Council - Decision 2/104. Human rights and access to water

The Human Rights Council,

... Taking note of the draft guidelines for the realization of the right to drinking water and sanitation contained in the report of the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/Sub.2/2005/25), ...

Decides to request the Office of the United Nations High Commissioner for Human Rights, taking into account the views of States and other stakeholders, to conduct, within existing resources, 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, which includes relevant conclusions and recommendations thereon, to be submitted prior to the sixth session of the Council.

28 September 2007 - Human Rights Council - Resolution 6/8. Human rights and equitable access to safe drinking water and sanitation

The Human Rights Council, ... Taking note of the report of the United Nations High Commissioner for Human Rights on the scope and content of relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments (A/HRC/6/3) ... 1. Calls upon all States to give due attention to the report of the High Commissioner;

28 March 2008 - Human Rights Council - Resolution 7/22. Human rights and access to safe drinking water and sanitation

The Human Rights Council ... Emphasizing that international human rights law instruments, including the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child entail obligations in relation to access to safe drinking water and sanitation, ...

1. Recalls the report of the United Nations High Commissioner for Human Rights 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, submitted pursuant to Council decision 2/104 of 27 November 2006;

2. Decides to appoint, for a period of three years, an independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation ...



See section 1.1 for details on key obligations entailed in those human rights treaties



See section 1.3. on the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation

39 Most Human Rights Council and UN General Assembly resolutions after 2010 contain operative paragraphs on the work of the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation. These are found in section 1.3.

40 It is important to mention that other thematic resolutions discussed water and sanitation issues, such as those on the right to health, dumping of toxic waste, etc.

1 October 2009 - Human Rights Council – Resolution 12/8. Human rights and access to safe drinking water and sanitation

In light of the international year of sanitation (see Special UN observances and campaigns in section 2.5 below), and the Independent Expert's first annual report on human rights obligations in the access to sanitation, Resolution 12/8 contained operative paragraphs specifically on sanitation, calling upon States to undertake actions on sanitation issues, as captured in the extracts below. Key elements discussed include, the need for a gender-sensitive approach, data collection, enabling frameworks and access to information and participation. In addition, the Human Rights Council recognises the contribution of the private sector and urges the adoption of a human rights-based approach in development.

The Human Rights Council ...

3. Recognizes that States have an obligation to address and eliminate discrimination with regard to access to sanitation, and urges them to address effectively inequalities in this area;

4. Calls upon States:

(a) To create an enabling environment to address the issue of lack of sanitation at all levels, including, where appropriate, by budgeting, legislation, the establishment of regulatory, monitoring and accountability frameworks and mechanisms, the assignment of clear institutional responsibilities and the appropriate inclusion of sanitation in national poverty reduction strategies and development plans;

(b) To collect, at the appropriate level, current, accurate and detailed information about sanitation coverage in the country and the characteristics of unserved and underserved households, and to make this information available to all stakeholders;

(c) To develop, where appropriate, national and/or local plans of action, in cooperation with other stakeholders, in order to address the lack of access to sanitation in a comprehensive way, giving due consideration to wastewater management, including treatment and reuse;

(d) To ensure and promote access to information for, and the full, free and meaningful participation of, local communities in the design, implementation and monitoring of the above mentioned plans of action;

(e) To adopt a gender-sensitive approach to all relevant policymaking in the light of the special sanitation needs of women and girls;

(f) To organize or otherwise support, as appropriate, large-scale public awareness campaigns promoting behaviour change in sanitation and to provide information, in particular on hygiene promotion;

5. Recognizes the important contribution of the private sector when addressing the issue of access to sanitation;

6. Stresses the important role of international cooperation and technical assistance played by the specialized agencies of the United Nations system, international and development partners as well as donor agencies, and therefore the need that more should be done when mobilizing resources to support effectively the efforts of States to address the lack of access to sanitation, and urges development partners to adopt a human rights-based approach when designing relevant development programmes in support of national initiatives and plans of action;

3 August 2010 - UN General Assembly - Resolution 64/292. The human right to water and sanitation⁴¹

The General Assembly ... *Acknowledging the importance of equitable access to safe and clean drinking water and sanitation as an integral component of the realization of all human rights, ...*

 First formal explicit recognition in a UNGA resolution of the right to water and sanitation (addressed as one right)

1. Recognizes the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights;
2. Calls upon States and international organizations to provide financial resources, capacity-building and technology transfer, through international assistance and cooperation, in particular to developing countries, in order to scale up efforts to provide safe, clean, accessible and affordable drinking water and sanitation for all; ...

30 September 2010 - Human Rights Council - Resolution 15/9. Human rights and access to safe drinking water and sanitation

The Human Rights Council ...

2. Recalls General Assembly resolution 64/292 of 28 July 2010, in which the Assembly recognized the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights;
3. Affirms that the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity;
6. Reaffirms that States have the primary responsibility to ensure the full realization of all human rights, and that the delegation of the delivery of safe drinking water and/or sanitation services to a third party does not exempt the State from its human rights obligations;
7. Recognizes that States, in accordance with their laws, regulations and public policies, may opt to involve non-State actors in the provision of safe drinking water and sanitation services and, regardless of the form of provision, should ensure transparency, non-discrimination and accountability;
8. Calls upon States:
 - (a) To develop appropriate tools and mechanisms, which may encompass legislation, comprehensive plans and strategies for the sector, including financial ones, to achieve progressively the full realization of human rights obligations related to access to safe drinking water and sanitation, including in currently unserved and underserved areas;
 - (b) To ensure full transparency of the planning and implementation process in the provision of safe drinking water and sanitation and the active, free and meaningful participation of the concerned local communities and relevant stakeholders therein;
 - (c) To pay particular attention to persons belonging to vulnerable and marginalized groups, including by respecting the principles of non-discrimination and gender equality;
 - (d) To integrate human rights into impact assessments throughout the process of ensuring service provision, as appropriate;
 - (e) To adopt and implement effective regulatory frameworks for all service providers in line with the human rights obligations of States, and to allow public regulatory institutions of sufficient capacity to monitor and enforce those regulations;
 - (f) To ensure effective remedies for human rights violations by putting in place accessible accountability mechanisms at the appropriate level;

41 This resolution was adopted with 112 votes in favour, none against and 41 abstentions. For further details on voting records, please see: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/64/PV.108.

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9. Recalls that States should ensure that non-State service providers:

(a) Fulfil their human rights responsibilities throughout their work processes, including by engaging proactively with the State and stakeholders to detect potential human rights abuses and find solutions to address them;

(b) Contribute to the provision of a regular supply of safe, acceptable, accessible and affordable drinking water and sanitation services of good quality and sufficient quantity; ...

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24 March 2011 - Human Rights Council - Resolution 16/2. The human right to safe drinking water and sanitation

The Human Rights Council ...

3. Taking note with interest of the statement of the Committee on Economic, Social and Cultural Rights on the right to sanitation, as a complement to the Committee's general comment No. 15;

7. Stresses the important role of the international cooperation and technical assistance provided by States, specialized agencies of the United Nations system, international and development partners, as well as by donor agencies, in particular in the timely achievement of the relevant Millennium Development Goals, and urges development partners to adopt a human rights-based approach when designing and implementing development programmes in support of national initiatives and action plans related to the enjoyment of access to safe drinking water and sanitation; ...

 The Statement on the right to sanitation was adopted in November 2010. Extracts can be found in section 1.1.

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28 September 2011 - Human Rights Council - Resolution 18/1. The human right to safe drinking water and sanitation

Resolution 18/1 recalls the Vienna Declaration and Programme of Action identified above. In addition, the Council calls upon States to work on various issues, such as monitoring the status of the realisation of the HRWS, develop strategies including definition of responsibilities for all water and sanitation sector actors, assess legislative and policy frameworks, target setting, establishment of a regulatory as well as accountability framework, etc.

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The Human Rights Council ...

5. Reaffirms that States have the primary responsibility to ensure the full realization of all human rights, and must take steps, nationally and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, to achieve progressively the full realization of the right to safe drinking water and sanitation by all appropriate means, including particularly the adoption of legislative measures in the implementation of their human rights obligations;

6. Also reaffirms the important role that national plans of action can play as tools for the promotion and protection of human rights, as highlighted in the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993, including for the promotion and protection of the human right to safe drinking water and sanitation;

7. Calls upon States: ...

(a) To continuously monitor and regularly analyse the status of the realization of the right to safe drinking water and sanitation on the basis of the criteria of availability, quality, acceptability, accessibility and affordability;

(b) To assess existing policies, programmes and activities in the sectors of water and sanitation, giving due consideration to waste-water management, including treatment and reuse, and to monitor resources allocated to increase adequate access, as well as to identify actors and their capacity;

(c) To develop comprehensive plans and strategies, including the definition of responsibilities for all water and sanitation sector actors, to achieve progressively the full realization of the

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right to safe drinking water and sanitation for all, or re-examine and revise them where necessary to ensure consistency with human rights standards and principles;

(d) To assess whether the existing legislative and policy framework is in line with the right to safe drinking water and sanitation, and to repeal, amend or adapt it in order to meet human rights standards and principles;

(e) To ensure full transparency of the monitoring and assessment of the implementation of plans of action, projects and programmes in the sectors of water and sanitation and to ensure, including in the planning process, the free, effective, meaningful and non-discriminatory participation of all people and communities concerned, particularly people living in disadvantaged, marginalized and vulnerable situations;

(f) To set access targets to be reached in short-time periods for universal service provision, giving priority to realizing a basic level of service for everyone before improving service levels for those already served;

(g) To set indicators, including disaggregated data, based on human rights criteria, to monitor progress and to identify shortcomings to be rectified and challenges to be met;

(h) To ensure financing to the maximum of available resources in order to implement all the necessary measures to ensure that water and sanitation systems are sustainable and that services are affordable for everyone, while ensuring that allocated resources are not limited to infrastructure but also include resources for regulatory activities, operation and maintenance, the institutional and managerial structure and structural measures, including increasing capacity;

(i) To provide for a regulatory framework aimed at ensuring that all water and sanitation service providers respect and protect human rights and do not cause human rights violations or abuses, and to ensure that national minimum standards, based on human rights criteria, are in place when water and sanitation services are decentralized, in order to ensure coherence and countrywide compliance with human rights;

(j) To provide for a framework of accountability that provides for adequate monitoring mechanisms and legal remedies, including measures to overcome obstacles in access to justice and other accountability mechanisms, and lack of awareness of the law, human rights and opportunities to claim these rights ...

27 September 2012 - Human Rights Council - Resolution 21/2. The human right to safe drinking water and sanitation

Resolution 21/2 contains operative clauses on issues related to marginalisation, discrimination and stigmatisation in light of the Special Rapporteur's 2012 Human Right Council report.

The Human Rights Council ...

2. Also welcomes the commitments of States regarding the human right to safe drinking water and sanitation made at the United Nations Conference on Sustainable Development on 22 June 2012; ...

7. Expresses deep concern at the negative impact of discrimination, marginalization and stigmatization on the full enjoyment of the human right to safe drinking water and sanitation;

11. Calls upon States:

(a) To prioritize in an appropriate way funding for safe drinking water and sanitation, with a particular focus on extending access to the unserved or underserved, including measures to identify the most marginalized, excluded and disadvantaged persons in terms of access to safe drinking water and sanitation, to develop the capacity of decision makers and practitioners for implementing strategies and concepts specifically focusing on the sustainable provision of safe drinking water and sanitation to the unserved poor, and to develop specific initiatives that are more likely to reach the most marginalized and disadvantaged and improve their situation ...

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(b) To consider increasing the percentage of international aid allocated to safe drinking water and sanitation, and to incorporate a human rights-based approach;

(c) To monitor the affordability of safe drinking water and sanitation in order to determine whether specific measures are needed to ensure that household contributions are and remain affordable by means of, inter alia, effective regulation and oversight of all service providers;

(d) To promote transparency of budgets and other funding, as well as of programmes and projects of all actors in the water and sanitation sector, in order to ensure an adequate basis for planning with regard to the most vulnerable and marginalized sectors of society and in order to inform decision-making and policymaking processes in both public and private sectors;

(e) To consult with communities on adequate solutions to ensure sustainable access to safe drinking water and sanitation;

(f) To ensure the sustainability of access to water and sanitation by, inter alia, capacity-building of Government authorities at all levels with regard to their responsibilities in the service delivery chain, adequate budgeting of costs, including costs of maintenance, and establishing an adequate and effective regulatory system; ...

**27 September 2013 - Human Rights Council - Resolution 24/18.
The human right to safe drinking water and sanitation**



The Human Rights Council ...

13. Calls upon States:

(a) To incorporate the principle of sustainability into measures adopted to realize the human right to safe drinking water and sanitation, during times of both economic stability and economic and financial crisis;

(b) To prioritize appropriately funding for maintenance and operation to achieve and maintain sustainability and prevent retrogression in service provision, and to ensure, in an appropriate manner, independent regulation and monitoring of the water and sanitation sectors, as well as accountability mechanisms to deal with practices that undermine the progressive realization of the human right to safe drinking water and sanitation;

(c) To undertake holistic planning aimed at achieving sustainable universal access, including in instances where the private sector, donors and non-governmental organizations are involved in service provision;

18 December 2013 - UN General Assembly - Resolution 68/157. The human right to safe drinking water and sanitation

Contrary to the 2010 General Assembly resolution 64/292, this resolution, which reaffirms the recognition of the HRWS, was adopted without a vote.⁴²

The General Assembly ... Recalling that the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and is inextricably related to the right to the highest attainable standard of physical and mental health, as well as to the right to life and human dignity, ...

1. Reaffirms the recognition of the right to safe drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights;

2. Recognizes the need to give due consideration to the human right to safe drinking water and sanitation in the elaboration of the post-2015 development agenda, in particular while

42 For details on voting records, see: http://www.un.org/en/qa/search/view_doc.asp?symbol=A/68/PV70.

defining concrete goals, targets and indicators, taking into account an approach that supports the promotion and protection of human rights; ...

6. Calls upon States:

- (a) To ensure the progressive realization of the human right to safe drinking water and sanitation;
- (b) To continuously monitor and regularly analyse the status of the realization of the human right to safe drinking water;
- (c) To give due consideration to the human right to safe drinking water and sanitation and the principles of equality and non-discrimination in the elaboration of the post-2015 development agenda;
- (d) To ensure the progressive realization of the human right to safe drinking water and sanitation for all in a non-discriminatory manner while eliminating inequalities in access, including for individuals belonging to vulnerable and marginalized groups, on the grounds of race, gender, age, disability, ethnicity, culture, religion and national or social origin or on any other grounds and with a view to progressively eliminating inequalities based on factors such as rural-urban disparities, residence in a slum, income levels and other relevant considerations;
- (e) To consult with communities on adequate solutions to ensure sustainable access to safe drinking water and sanitation;
- (f) To provide for effective accountability mechanisms for all water and sanitation service providers to ensure that they respect human rights and do not cause human rights violations or abuses; ...

7. Invites regional and international organizations to complement efforts by States to progressively realize the human right to safe drinking water and sanitation;

The General Assembly further reaffirms that States have the primary responsibility to ensure the full realisation of all human rights, and stresses the role of international cooperation, but also the importance of adopting a human rights-based approach in development programmes.

25 September 2014 - Human Rights Council - Resolution 27/7. The human right to safe drinking water and sanitation

The Human Rights Council ...

11. Calls upon States:

- (a) To achieve progressively the full realization of the human right to safe drinking water and sanitation;
- (b) To identify patterns of failure to respect, protect or fulfil the human right to safe drinking water and sanitation for all persons without discrimination and to address their structural causes in policymaking and budgeting within a broader framework, while undertaking holistic planning aimed at achieving sustainable universal access, including in instances where the private sector, donors and non-governmental organizations are involved in service provision;
- (c) To ensure that effective remedies for violations of their obligations regarding the human right to safe drinking water and sanitation, including judicial, quasi-judicial and other appropriate remedies, are accessible to everyone, without discrimination;
- (d) To promote access for judges, prosecutors and decision-makers to adequate human rights education and training, including on the human right to safe drinking water and sanitation, by, inter alia, promoting or otherwise supporting ongoing training and the inclusion of such human rights curricula in law schools and other higher education, as appropriate;



The operative clauses discuss accountability issues in light of the Special Rapporteur's report on common violations of the HRWS.

(e) To promote the ability of human rights institutions and other relevant bodies to identify violations of the right to safe drinking water and sanitation, to receive complaints of violations of the right to safe drinking water and sanitation, and to assist with access to effective remedies for violations of the right to safe drinking water and sanitation;

(f) To provide comprehensive information in their periodic reports to treaty-monitoring bodies, for the universal periodic review process and to relevant regional and other mechanisms, as appropriate, for the identification, prevention and remedy of violations of the human right to safe drinking water and sanitation;

12. Calls upon non-State actors, including business enterprises, both transnational and others, to comply with their responsibility to respect human rights, including the human right to safe drinking water and sanitation, including by cooperating with State investigations into allegations of abuses of the human right to safe drinking water and sanitation, and by progressively engaging with States to detect and remedy abuses of the human right to safe drinking water and sanitation; ...

**17 December 2015 - UN General Assembly
- Resolution 70/169. The human rights to
safe drinking water and sanitation**



**First explicit recognition by the UN
General Assembly of the rights to water
and sanitation as two distinct human
rights**

In resolution 70/169, signs the first time for the UN General Assembly to address water and sanitation as two separate human rights. Among others, the resolution contains a definition of both rights, welcomes Goal 6 of the 2030 Agenda for Sustainable Development (adopted a few months earlier), and dedicates two paragraphs specifically to sanitation and one to gender-issues.

The General Assembly ...

Recalling the understanding by the Committee on Economic, Social and Cultural Rights and the Special Rapporteur on the human right to safe drinking water and sanitation that the rights to safe drinking water and sanitation are closely related, but have distinct features which warrant their separate treatment in order to address specific challenges in their implementation and that sanitation too often remains neglected if not addressed as a separate right, while being a component of the right to an adequate standard of living, ...

1. Affirms that the human rights to safe drinking water and sanitation as components of the right to an adequate standard of living are essential for the full enjoyment of the right to life and all human rights;

2. Recognizes that the human right to safe drinking water entitles everyone, without discrimination, to have access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use, and that the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity, while reaffirming that both rights are components of the right to an adequate standard of living;

3. Welcomes Goal 6 of the 2030 Agenda for Sustainable Development, on ensuring the availability and sustainable management of water and sanitation for all, which includes important dimensions related to the human rights to safe drinking water and sanitation; ...

5. Calls upon States:

(a) To ensure the progressive realization of the human rights to safe drinking water and sanitation for all in a non-discriminatory manner while eliminating inequalities in access, including for individuals belonging to groups at risk and to marginalized groups, on the grounds of race, gender, age, disability, ethnicity, culture, religion and national or social



**HRWS for all,
including groups
at risk and
marginalised
groups**

origin or on any other grounds, with a view to progressively eliminating inequalities based on factors such as rural-urban disparities, residence in a slum, income levels and other relevant considerations;

(b) To give due consideration to the commitments regarding the human rights to safe drinking water and sanitation when implementing the 2030 Agenda for Sustainable Development, including through the full implementation of Goal 6;

(c) To continuously monitor and regularly analyse the status of the realization of the human rights to safe drinking water and sanitation;

(d) To identify patterns of failure to respect, protect or fulfil the human rights to safe drinking water and sanitation for all persons without discrimination and to address their structural causes in policymaking and budgeting within a broader framework, while undertaking holistic planning aimed at achieving sustainable universal access, including in instances where the private sector, donors and non-governmental organizations are involved in service provision;

(e) To promote both women's leadership and their full, effective and equal participation in decision-making on water and sanitation management and to ensure that a gender-based approach is adopted in relation to water and sanitation programmes, including measures, inter alia, to reduce the time spent by women and girls in collecting household water, in order to address the negative impact of inadequate water and sanitation services on the access of girls to education and to protect women and girls from being physically threatened or assaulted, including from sexual violence, while collecting household water and when accessing sanitation facilities outside of their home or practising open defecation;

(f) To progressively eliminate open defecation by adopting policies to increase access to sanitation, including for individuals belonging to vulnerable and marginalized groups;

(g) To approach the sanitation issue in a much broader context, taking into account the need to pursue integrated approaches;

(h) To consult and coordinate with local communities and other stakeholders, including civil society and the private sector, on adequate solutions to ensure sustainable access to safe drinking water and sanitation;

(i) To provide for effective accountability mechanisms for all water and sanitation service providers to ensure that they respect human rights and do not cause human rights violations or abuses;



In this resolution, the UNGA calls upon States not only to consult with local communities, but also to coordinate with them and with other stakeholders.

8. Calls upon Member States to enhance global partnerships for sustainable development as a means to achieve and sustain the Goal and the targets of the 2030 Agenda for Sustainable Development, and highlights the need to develop adequate follow-up and review of progress on the 2030 Agenda, including on ensuring availability and sustainable management of water and sanitation for all; ...

Here, similar to the 2010 resolution on the HRWS, the General Assembly further reaffirms that States have the primary responsibility to ensure the full realisation of all human rights, and stresses the role of international cooperation, but also the importance of adopting a human rights-based approach in development programmes.

29 September 2016 - Human Rights Council - Resolution 33/10. The human rights to safe drinking water and sanitation

Council resolution 33/10 built upon the recognition of the UNGA of the human rights to water and sanitation as two distinct rights. The Council further affirms that the two rights are closely related, but have features that warrant distinct treatment. In light of the Special Rapporteur's report on gender equality, the Council called upon States to address gender issues in diverse manners, from legal reviews to tackling systematic inequalities. This resolution was adopted by forty-two votes in favour, one against and four abstentions.⁴³

The Human Rights Council ...

Recalling also *General Assembly resolution 70/169 of 17 December 2015, in which the Assembly recognized the rights to safe drinking water and sanitation as human rights that are essential for the full enjoyment of the right to life and all other human rights, and recalling also all resolutions by the Assembly relevant to the full realization of the human rights to safe drinking water and sanitation, ...*

Recalling the understanding by the Committee on Economic, Social and Cultural Rights and the Special Rapporteur on the human right to safe drinking water and sanitation that the rights to safe drinking water and sanitation are closely related, but have features that warrant distinct treatment in order to address specific challenges in their implementation, that sanitation too often remains neglected if not addressed as a separate right, and that both rights are components of the right to an adequate standard of living, ...

1. Welcomes the recognition by the General Assembly of the human rights to safe drinking water and sanitation as components of the right to an adequate standard of living and essential for the full enjoyment of the right to life and all human rights;

2. Also welcomes the recognition by the General Assembly that the human right to safe drinking water entitles everyone, without discrimination, to have access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use, and that the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity, while reaffirming that both rights are components of the right to an adequate standard of living;

3. Affirms that the human rights to safe drinking water and sanitation are closely related, but have features that warrant distinct treatment in order to address specific challenges in their implementation, while recognizing the relevance of all previous Human Rights Council resolutions on the topic and the importance of the work of the previous and current Special Rapporteur on the human right to safe drinking water and sanitation;

9. Notes with concern that, in spite of all efforts, gender inequalities still exist in the realization of the human rights to safe drinking water and sanitation, and therefore calls upon States ...

(a) To identify, with a view to repealing and reforming them, all laws that have both direct and indirect discriminatory consequences with regard to the equal enjoyment of the human rights to safe drinking water and sanitation, and with regard to gender-based violence;

(b) To take action to tackle systemic inequalities and to meet their obligations to effectively achieve substantive gender equality in the enjoyment of the rights to safe drinking water and sanitation, including through the implementation of targeted gender responsive policies, budgets and measures that go beyond enacting formal provisions ...

(d) To consider that gender-based inequalities are exacerbated when coupled with other

43 For the voting record, see: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/33/10.

grounds of discrimination and disadvantages, and therefore to use an “intersectionality lens” in policy initiatives so that priority is given to and measures are taken, as necessary, for those most disadvantaged in the enjoyment of their rights to water and sanitation, including women and girls ...

(e) To increase collaboration between the water, sanitation and hygiene sector and other sectors, including the education, employment and health sectors, and to address inequalities on the grounds of race, gender, age, disability, ethnicity, culture, religion and national or social origin or on any grounds, with a view to progressively eliminating inequalities in a comprehensive manner;

(f) To develop water, sanitation and hygiene approaches, programmes and policies that enable the meaningful participation of women and girls at all stages of planning, decision-making, implementation, monitoring and evaluation; ...

2.5. SPECIAL UN OBSERVANCES AND CAMPAIGNS

22 December 1992 - UN General Assembly - Resolution 47/193. World Day for Water

The General assembly ... 1. Decides to declare 22 March of each year World Day for Water, to be observed starting in 1993, in conformity with the recommendations of the United Nations Conference on Environment and Development contained in chapter 18 of Agenda 21 ...

World Water Day is coordinated by UN-Water in collaboration with governments and partners. Every year an official theme is selected for the annual campaign. Various activities and events take place. In addition, UN-Water releases the World Water Development Report focusing on the same topic as the campaign. WaterLex contributed to the 2017 edition on wastewater and the 2018 edition on Nature for Water. In 2019, it will be also a contributing agency to the report, the official theme of which will be on “Leaving No One Behind (Human Rights and Refugees)”. For more information on World Water Day, visit: www.unwater.org/what-we-do/inspire-action/ and www.worldwaterday.org.

Through UNGA Resolution 55/196, the year 2003 was proclaimed as the International Year of Freshwater, whereas in 2003 resolution 58/217, the UNGA proclaimed the period from 2005 to 2015 the International Decade for Action “Water for Life”. Earlier, the period 1981-1990 was proclaimed by UNGA resolution 35/18 as the International Drinking Water Supply and Sanitation Decade.

24 July 2013 – UN General Assembly - Resolution 67/291. Sanitation for All

The General Assembly ... 1. Decides to designate 19 November as World Toilet Day in the context of Sanitation for All...

World Toilet Day is coordinated by UN-Water in collaboration with governments and partners. Each year, World Toilet Day has a different theme. In 2017, the theme is wastewater. Several activities are organised and relevant factsheets published. For more information on World Toilet Day and relevant resources, see: www.worldtoiletday.info.

Through UNGA resolution 61/192, the year 2008 was declared the International Year of Sanitation.

2.6. OTHER RESOLUTIONS

11 September 1998 - Inter-Parliamentary Union - Resolution unanimously adopted by the 100th Inter-Parliamentary Conference. Water: the means required to preserve, manage and make the best use of this essential resource for sustainable development

The 100th Inter-Parliamentary Conference, ... Requests and recommends to governments and parliaments:

- 1. to rapidly initiate co-ordinated and comprehensive international action by, inter alia, WHO, FAO, UNEP, HABITAT and other relevant United Nations organisations to ensure access to potable water, especially by vulnerable groups such as women and children, and to develop sustainable strategies for water use in view of the fact that more than a fifth of the world's population have no access to safe supplies of potable water and more than half have no proper sanitary facilities;*
- 2. to implement globally valid minimum standards for the basic supply of potable water and water-related sanitation services to individuals;*
- 9. to give priority to national water policies whose principles and programmes are consistent with the wishes of the national community;*

24 May 2011 - World Health Assembly Resolution 64/24. Drinking-Water, Sanitation and Health

The Sixty-Fourth World Health Assembly, ... Urges states: (3) to ensure that national health strategies contribute to the realization of water- and sanitation-related Millennium Development Goals while coming in support to the progressive realization of the human right to water and sanitation that entitles everyone, without discrimination, to water and sanitation that is sufficient, safe, acceptable, physically accessible and affordable for personal and domestic uses;

1 April 2015 - Inter-Parliamentary Union - Resolution adopted by consensus by the 132nd IPU Assembly. Shaping a new water governance: Promoting Parliamentary Action on Water and Sanitation⁴⁴

The 132nd Assembly of the Inter-Parliamentary Union, ...

- 2. Also calls on national parliaments to enact legislation for the appropriate implementation of international treaties, customary law and resolutions related to water management and to the human right to water and sanitation, to organize appropriate human resources training and further education so as to enhance understanding of these instruments, and to encourage awareness-raising campaigns for citizens with a view to promoting responsible use of water;*
- 3. Exhorts national parliaments to ensure that women take part in all local, national and international water governance decision-making bodies;*
- 4. Urges national parliaments to set aside adequate budget allocations for multilevel and efficient governance, and to establish legislative and regulatory frameworks encouraging dialogue and partnerships between the public and private sectors in order to stimulate investment in the water sector, with a view to establishing a water-secure world for all present and future generations and to securing water affordability, accessibility and safety for all;*

44 WaterLex contributed to the shaping of this resolution.

CHAPTER 3

ACCESS TO DRINKING WATER AND SANITATION UNDER INTERNATIONAL HUMANITARIAN LAW

In the human rights framework, the obligation to protect the human rights to water and sanitation requires States to refrain from interfering with the enjoyment of those rights. During armed conflicts, such infringement could include, for example, limiting access to, or destroying water services and infrastructure as a punitive measure in violation of international humanitarian law (IHL).⁴⁵ This body of law provides an additional framework for the human rights to water and sanitation through a set of rules applicable to armed conflicts. In such situations, water can occupy an important space, which is not only characterised by accessibility of drinking water and sanitation, but which also relates to objects, such as dykes or dams, that can release dangerous forces if attacked, to a means to deliver humanitarian aid, to the use of poison, etc.⁴⁶ Although linked, such discussions fall outside the scope of this compilation and chapter, which focuses on aspects of humanitarian law that seek to ensure access to water and sanitation during armed conflicts.

In this context, the most relevant humanitarian law treaties are the third and fourth Geneva Conventions, along with the first and second Protocols Additional to the Geneva Conventions. The third Geneva Convention relative to the Treatment of Prisoners of War seeks to ensure, among others, sufficient drinking water and adequate sanitary measures for prisoners, including for women. The fourth Geneva Convention, which relates to the protection of civilians in times of war, requires that internees have satisfactory conditions, including water, sanitation and hygiene. The two additional protocols further protect attacks on “indispensable objects”, which includes drinking water installations and supplies. In addition, the first additional Protocol provides for the respect and protection of civilian civil defence organisations, which can have an important role in ensuring access to water and sanitation during armed conflicts. The framework established by the Geneva conventions and additional protocols therefore articulates key minimum standards with respect to the protection of necessary objects, of the environment and of prisoners of war and civilians, on both water and sanitation although aspects related to the right to sanitation are addressed to a different extent.

Finally, this section contains a short extract from the Rome Statute, which in clarifying the International Criminal Court’s jurisdiction, includes as an example of war crimes the international launch of an attack causing severe damage to the natural environment. A number of criteria however have to be met under the relevant provision of the Statute, to establish environmental harm during armed conflict as a war crime, setting a high threshold. In September 2016, the Court’s Office of the Prosecutor issued a policy paper on case selection and prioritisation, whereby it informed that in the context of assessing crimes in light of vulnerability of victims, terror instilled, social, economic and environmental damage inflicted on affected communities, it “will give particular consideration to prosecuting Rome Statute crimes that are committed by means of, or that result in among other the destruction of the environment, the illegal exploitation of natural resources or the illegal dispossession of land”.⁴⁷

45 See CESCR, General Comment No. 15, paras 21-22.

46 See respectively e.g. Protocol I, arts. 56 and 23, and the Rome Statute, art. 8(2)(b). For a broader analysis on water in international humanitarian law, see Théo Boutruche, *Le statut de l’eau en droit international humanitaire*, 21-12-2000, *Revue Internationale de la Croix-Rouge*, 840.

47 International Criminal Court Office of the Prosecutor, Policy paper on case selection and prioritisation, 15 September 2016, para 41, available at: https://www.icc-cpi.int/ItemsDocuments/20160915_OTP-Policy_Case-Selection_Eng.pdf.

1



Geneva Convention (III) relative to the Treatment of Prisoners of War (1949)

2

This Convention contains clauses on water and sanitary conditions for prisoners of war.

3



Conditions of evacuation - Article 20:

The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water ...

4



Food - Article 26:

Sufficient drinking water shall be supplied to prisoners of war.

5



Hygiene - Article 29:

The Detaining Power shall be bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics. Prisoners of war shall have for their use, day and night, conveniences which conform to the rules of hygiene and are maintained in a constant state of cleanliness. In any camps in which women prisoners of war are accommodated, separate conveniences shall be provided for them. Also apart from the baths and showers with which the camps shall be furnished, prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry; the necessary installations, facilities and time shall be granted them for that purpose.

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7



Conditions - Article 46:

The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good health ...

8



Execution of punishments I. Premises - Article 97:

... A prisoner of war undergoing punishment shall be enabled to keep himself in a state of cleanliness, in conformity with Article 29.

9



Geneva Convention (IV) relative to the protection of Civilian Persons in Time of War (1949)

The applicable clauses under this Convention concern water and sanitary conditions for internees and detainees



Method of repatriation - Article 36:

Departures permitted under the foregoing Article shall be carried out in satisfactory conditions as regards safety, hygiene, sanitation and food.

Accommodation, hygiene - Article 85:

Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene, and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning. Whenever it is necessary, as an exceptional and temporary measure, to accommodate women internees who are not members of a family unit in the same place of internment as men, the provision of separate sleeping quarters and sanitary conveniences for the use of such women internees shall be obligatory.

Food - Article 89:

Sufficient drinking water shall be supplied to internees.

Financial resources and individual accounts - Article 98:

All internees shall receive regular allowances, sufficient to enable them to purchase goods and articles, such as tobacco, toilet requisites, etc. Such allowances may take the form of credits or purchase coupons.

Conditions - Article 127:

The Detaining Power shall supply internees during transfer with drinking water and food sufficient in quantity, quality and variety to maintain them in good health...



Protocol Additional (I) to the Geneva Conventions relating to the Protection of Victims of International Armed Conflict (1977)

Articles 54, 61 and 62 contain clauses on objects indispensable to the survival of the population, including drinking water installation and supplies

Protection of objects indispensable to the survival of the civilian population - Article 54:

2. It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as ... drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party.⁴⁸

Definitions and scope [Civil defence] - Article 61:

For the purposes of this Protocol: a) "civil defence" means the performance of some or all of the undermentioned humanitarian tasks intended to protect the civilian population against the dangers, and to help it to recover from the immediate effects, of hostilities, or disasters and also to provide the conditions necessary for its survival. These tasks are: ... x) provision of emergency accommodation and supplies; ... xii) emergency repair of indispensable public utilities; ... xiv) assistance in the preservation of objects essential for survival;

General protection - Article 62:

1. Civilian civil defence organizations and their personnel shall be respected and protected ... They shall be entitled to perform their civil defence tasks except in case of imperative military necessity.

⁴⁸ Paragraphs 3-5 of Article 54 restrict the application of paragraph 2 in certain cases related to military necessity and support to military action.

1

Relevant environmental clauses are also found in articles 35 and 55.

2



Basic rules - Article 35:

3. Is it prohibited to employ methods or means of warfare which are intended, or may be expected, to cause widespread, long-term and severe damage to the natural environment.

3



Protection of the natural environment - Article 55:

1. Care shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage. This protection includes a prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population. 2. Attacks against the natural environment by way of reprisals are prohibited.

4



Protocol Additional (II) to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts (1977)

5



Persons whose liberty has been restricted - Article 5:

1. ... the following provisions shall be respected as a minimum with regard to persons deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained: ... b) the persons referred to in this paragraph shall, to the same extent as the local civilian population, be provided with food and drinking water and be afforded safeguards as regards health and hygiene and protection against the rigours of the climate and the dangers of the armed conflict...



Minimum water and hygienic standards for persons deprived of their liberty

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7



Protection of objects indispensable to the survival of the civilian population - Article 14:

Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as ... drinking water installations and supplies and irrigation works.



Objects indispensable to the survival of the population, including drinking water installation and supplies

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According to the 1987 Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949, "the verbs "attack", "destroy", "remove" and "render useless" are used to cover all eventualities, including pollution of water supplies by chemical agents" (4801).



Rome Statute of the International Criminal Court (1998)



Article 8 - War Crimes:

1. The Court shall have jurisdiction in respect of war crimes 2. For the purpose of this Statute, 'water crimes' means: ... (b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts: ... (iv) Intentionally launching an attack in the knowledge that such attack will cause ... widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;

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CHAPTER 4

ENVIRONMENTAL LAW, A COMPLEMENTARY FRAMEWORK FOR SUPPORTING THE REALISATION OF THE HRWS

International environmental law (IEL) provides an indirect but complementary framework for supporting the realisation of the human rights to water and sanitation, be it through standards on transboundary issues such as water pollutants; on global commons such as the climate system; or through standards applicable to the national environment but which deal with common concerns, such as biodiversity. The body of international environmental law has developed gradually, with concepts such as sustainable development, emerging in the 1980's, and more complex treaties being adopted towards the last 20 years of the XXth century. The extracts in this section demonstrate the most important links that can be identified from this area of public international law.

Environmental law principles play an undisputable role for indirectly helping the realisation of the HRWS. The no harm principle, whereby the State is responsible for not causing transboundary environmental damage, which could include water pollution, is reflected in international legal instruments and is a recognized principle of customary international law. In addition, the precautionary principle is worth highlighting since precautionary measures in a situation of no scientific certainty over potential environmental harm can help protect water quality and therefore contribute to maintaining clear water sources for drinking water purposes. In addition to other principles which relate to IEL, such as sustainable development and use of natural resources, the existing framework arising from IEL is of relevance also due to some human rights principles that are articulated in some instruments, such as participation and access to information. This chapter highlights certain articles on the different IEL treaties when particularly applicable to water and sanitation.



Minamata Convention on Mercury (2013)

The Minamata Convention has a strong component on environment and human health in its objective under Article 1. In order to meet it, the Convention sets out various measures to control the supply and trade of mercury, and to control mercury-added products and manufacturing processes in which mercury or mercury compounds are used, as well as artisanal and small scale gold mining. Particularly, the Convention contains articles on emissions and releases of mercury, namely into water. Article 9 is in this respect of special relevance as it concerns the control and reduction of releases of mercury to land and water from relevant point sources not entailed in other provisions.

In terms of mechanisms, Article 21 requires each Party to report to the Conference of the Parties, through the Secretariat, on the measures it has taken to implement the provisions of this Convention and on the effectiveness of such measures and the possible challenges in meeting the objectives of the Convention.



Objective - Article 1:

The objective of this Convention is to protect the human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds.



Releases - Article 9:

... 2. For the purposes of this Article: (a) "Releases" means releases of mercury or mercury compounds to land and water; ... 3. Each Party shall no later than three years after the date of entry into force of this Convention for it and on a regular basis hereafter, identify the relevant point source categories. 4. A Party with relevant sources shall take measures to control releases and prepare a national plan setting out the measures to be taken to control releases and its expected targets, goals and outcomes. 6. Each Party shall ... maintain... an inventory of releases from relevant sources.



UNECE Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters (1998) (Aarhus Convention)

The Aarhus Convention is a UNECE Convention open to accession by any UN Member State upon approval by the Meeting of the Parties. It contains key articles on certain human rights principles which are important also for the HRWS.

The review of compliance is undertaken through the Meeting of the Parties, which, according to Article 15, shall establish on a consensus basis, optional arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of this Convention. Importantly, these arrangements shall allow for appropriate public involvement and may include the option of considering communications from members of the public on matters related to this Convention.



Objective - Article 1:

In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.



General Provisions - Article 3:

1. Each Party shall take the necessary legislative, regulatory and other measures, including measures to achieve compatibility between the provisions implementing the information, public participation and access-to-justice provisions in this Convention, as well as proper enforcement measures, to establish and maintain a clear, transparent and consistent framework to implement the provisions of this Convention. 2. Each Party shall endeavour to ensure that officials and authorities assist and provide guidance to the public in seeking access to information, in facilitating participation in decision-making and in seeking access to justice in environmental matters. 3. Each Party shall promote environmental education and environmental awareness among the public, especially on how to obtain access to information, to participate in decision-making and to obtain access to justice in environmental matters.

The Convention further contains specific clauses and procedural requirements related to public participation in decision-making (articles 6-8) and access to information (articles 4 and 5), as well as to access to justice to challenge decisions which do not respect obligations on public participation, and access to information, or national environmental law (article 9).

With respect to access to information, Article 5 is noteworthy for water and sanitation, complementing the human rights framework arising namely from General Comment No. 15. Measures taken under this article specifically require the dissemination of information in case of imminent threat to human health or the environment, enabling the public to take the right measures to mitigate the harm. With respect to water, this could for example consist of pollution of a water source which is used for drinking purposes.

Among the clauses on public participation, Article 7 is important due to the involvement of the public in the development of plans, programmes and policies. This also applies to the preparation of legal instruments, which is detailed under Article 8.



Collection and dissemination of environmental information - Article 5:

1. Each Party shall ensure that ... (c) In the event of any imminent threat to human health or the environment, whether caused by human activities or due to natural causes, all information which could enable the public to take measures to prevent or mitigate harm arising from the threat and is held by a public authority is disseminated immediately and without delay to members of the public who may be affected.



Public participation concerning plans, programmes and policies - Article 7:

Each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, with a transparent and fair framework, having provided the necessary information to the public. ... To the extent possible, each Party shall endeavor to provide opportunities for public participation in the preparation of policies relating to the environment.



Kiev Protocol on Pollutant Release and Transfer Registers to the UNECE Aarhus Convention (2003)



Objective - Article 1:

The objective of this Protocol is to enhance public access to information through the establishment of coherent, integrated, nationwide pollutant release and transfer registers (PRTRs) in accordance with the provisions of this Protocol, which could facilitate public participation in environmental decision-making as well as contribute to the prevention and reduction of pollution of the environment.



All UN Member States can join the Kiev Protocol



Information - Article 7(2):

Each Party shall require the owner or operator of a facility referred to in paragraph 1⁴⁹ to submit the information ..., with respect to those pollutants and wastes for which thresholds were exceeded.

⁴⁹ Paragraph 1 refers to activities specified in annex I, which include waste and waste-water management installations, but also other industries which can impact water resources, and pollutants specified in annex II, which include water pollutants.



UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes (1992)⁵⁰

The **UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes** (UNECE Water Convention) and the **UN Convention on the Law of the Non-Navigational Uses of International Watercourses** can be seen as two complementary international water conventions.⁵¹ Although they do not explicitly enshrine the HRWS, their various principles can support the realisation of those rights (e.g. equitable use of water resources) in addition to laying down human rights principles, such as participation. Given the various dimensions of water, it is fundamental to address water issues beyond the national level. The UNECE and UN water conventions provide a framework to implement rules for water management at transboundary basin level and to support transboundary water cooperation.

The UNECE Water Convention's meeting of Parties provides a forum for State Parties to review the implementation of their commitments under the Convention. The institutional framework established under the Convention, including a secretariat, meeting of the Parties, working groups, etc., promote and strengthen the implementation of the instrument.



Article 2(2):

The Parties shall, in particular, take all appropriate measures: ... (c) to ensure that transboundary waters are used in a reasonable and equitable way ... (d) To ensure conservation and, where necessary, restoration of ecosystems.



Article 2(5):

In taking the measures referred in paragraphs 1 and 2 of this article, the Parties shall be guided by the following principles:

(a) the precautionary principle, by virtue of which action to avoid the potential transboundary impact of the release of hazardous substances shall not be postponed on the ground that scientific research has not fully proved a causal link between those substances, on the one hand, and the potential transboundary impact, on the other hand;

(b) the polluter-pays principles, by virtue of which costs of pollution prevention, control and reduction measures shall be borne by the polluter;

(c) Water resources shall be managed so that the needs of the present generation are met without compromising the ability of future generations to meet their own needs.

The rights of future generations form an important part of the human rights framework. The Committee on Economic, Social and Cultural Rights, recalled in General Comment No. 15, that the manner of the realisation of the right to water must also be sustainable, ensuring that the right can be realised for present and future generations.

⁵⁰ Initially a regional agreement, the UNECE Water Convention is now open for accession to all UN Member States since 1 March 2016.

For the Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes, see the regional chapter on Europe (chapter 9), below.

⁵¹ For a summary of the complementarity between the two Conventions, see: https://www.unece.org/fileadmin/DAM/env/water/publications/WAT_The_global_opening_of_the_1992_UNECE_Water_Convention/ECE_MPWAT_43_Rev1_ENGLISH_WEB.pdf.



Article 3:

1. To prevent, control and reduce transboundary impact, the Parties shall develop, adopt, implement and ... render compatible ... measures, in order to ensure, inter alia, that: ... (1) Sustainable water-resources management, including the application of the ecosystems approach, is promoted; ... (3) ... each Party shall define, where appropriate, water-quality objectives and adopt water-quality criteria for the purpose of preventing, controlling and reducing transboundary impact. General guidance ... is given in annex III



Annex III:

Water-quality objectives and criteria shall (c) Take into account specific water-quality requirements (raw water for drinking-water purposes, irrigation, etc.);



Convention on the Law of the Non-Navigational Uses of International Watercourses (1997)



Article 5:

1. Watercourse States shall in their respective territories utilize an international watercourse in an equitable and reasonable manner...



Article 6:

1. Utilization of an international watercourse in an equitable and reasonable manner ... requires taking into account all relevant factors and circumstances, including: ... (b) the social and economic needs of the watercourse States concerned; (c) the population dependent on the watercourse in each watercourse State ...



Article 7:

1. Watercourse States shall, in utilizing an international watercourse in their territories, take all appropriate measures to prevent the causing of significant harm to other watercourse States.



Article 10:

1. In the absence of agreement or custom to the contrary, no use of an international watercourse enjoys inherent priority over other uses. 2. In the event of a conflict between uses of an international watercourse, it shall be resolved with reference to Articles 5 to 7, with special regard being given to the requirements of vital human needs.

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Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (1994)

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Ensuring sufficient water availability to secure water for drinking and domestic uses relates to many environmental decisions and the protection of healthy ecosystems. The Committee on Economic, Social and Cultural Rights put forth the link between the right to water and certain areas of environmental law in making a direct reference to the Convention to Combat Desertification, the Convention on Biological Diversity (CBD) and the Framework Convention on Climate Change in the following extract:

States parties should adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations. Such strategies and programmes may include: ... (e) assessing the impacts of actions that may impinge upon water availability and natural-ecosystems watersheds, such as climate changes, desertification and increased soil salinity, deforestation and loss of biodiversity.

CESCR, General Comment No. 15, para 28

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Objective - Article 2:

1. The objective of this Convention is to combat desertification and mitigate the effects of drought in countries experiencing serious drought and/or desertification, particularly in Africa, through effective action at all levels, supported by international cooperation and partnership arrangements, in the framework of an integrated approach 2. Achieving this objective will involve long-term integrated strategies that focus simultaneously, in affected areas, on ... the rehabilitation, conservation and sustainable management of land and water resources, leading to improved living conditions, in particular at the community level.

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The Convention further calls for the participation of local populations, including women and youth (e.g. Articles 3, 5, 10) and addresses water management namely in its annexes. It also contains clauses on access to information.

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Convention on Biological Diversity (1992)



Article 1:

The objectives of this Convention ... are the conservation of biological diversity, the sustainable use of its components



Article 6:

Each Contracting Party shall ... : (a) Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect, inter alia, the measures set out in this Convention relevant to the Contracting Party concerned; and (b) Integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sector or cross-sectoral plans, programmes and policies.

Biodiversity and healthy ecosystems support the realisation of the rights to water and to sanitation. For example, forests can improve water flow regulation, by reducing runoff and providing greater water storage, whereas animals and plant species help with filtering pollutants and purifying water.⁵² The CBD thereby offers an important and widely ratified⁵³ international instrument to help conserve and sustainably use biodiversity, which when implemented, will contribute to the HRWS.⁵⁴ It also contains provisions of relevance for participation and indigenous peoples' rights.



Framework Convention on Climate Change (1992)



Article 4:

1. All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall: (b) Formulate, implement, public and regularly update national and, where appropriate, regional programmes containing ... measures to facilitate adequate adaptation to climate change; ... (3) ... develop and elaborate appropriate and integrated plans for coastal zone management, water resources and agriculture, and for the protection and rehabilitation of areas ... affected by drought and desertification, as well as floods;



This Convention also contains provisions on participation and information

While climate variations and climate change threaten the HRWS, the realisation of those rights can also overcome some of the challenges related to climate change, by improving wastewater and water management as a component of adaptation and mitigation strategies to climate change.⁵⁵

52 On human rights and biological diversity, see A/HRC/34/49; paragraph 21 specifically discusses the benefits of biodiversity for the right to water.

53 196 States are Party to the CBD, at the time of publishing.

54 See also the Aichi Biodiversity Targets, which were adopted by the CBD Conference of the Parties as part of the CBD Strategic Plan for 2011-2020. In particular Target 14 reads: By 2020, ecosystems that provide essential services, including services related to water, and contribute to health, livelihoods and well-being, are restored and safeguarded, taking into account the needs of women, indigenous and local communities, and the poor and vulnerable.

55 <https://www.waterlex.org/climate-change-ww/>

CHAPTER 5

WATER AND SANITATION AT WORK: ILO CONVENTIONS AND RECOMMENDATIONS

Through its mandate, the International Labour Organization (ILO) promotes social justice for all, namely through labour standards and policies that promote decent work. ILO's labour standards support occupational safety and health, and form also part of the international framework relevant for the human rights to water and sanitation. The institution has indeed adopted a number of Conventions (binding on ratifying Member States) and recommendations (non-binding) which directly address key aspects of the human rights to water and sanitation (HRWS) in work settings. Adequate access to water and sanitation, as well as hygiene, in work places can prevent transmission of disease and reduce health and safety risks from inadequate work conditions. From a human rights perspective, one aspect of the normative content of the HRWS is to ensure that water and sanitation are accessible in the immediate vicinity of those places where an individual spends an important amount of time, including in workplaces. In certain cases, this can mean that more water might be needed for certain people due to their working conditions. Against this backdrop, ILO instruments provide important standards that can support the realisation of various human rights, including access to safe drinking water and sanitation at work.

Through its Future of Work Initiative, which seeks to respond effectively to challenges arising from changes in the world of work, ILO is also addressing important water-related issues, such as environmental changes. The future of work will affect environmental and social aspects related to sustainable development, and thereby also water resources and the realisation of human rights. For instance, certain sectors can play an increasingly important role in the restoration of ecosystems whereas services utilities, such as water providers, are key for ensuring safe and affordable access to drinking water and sanitation. Conversely, water is also essential for securing livelihoods and thus contributing to the right to work. Decent and sustainable work can therefore have a positive impact on water quality and accessibility, while also contributing to the realisation of water and sanitation-related Sustainable Development Goals.

The present chapter identifies extracts from ILO Conventions and Recommendations that are of relevance for the human rights to water and sanitation. The ILO has also adopted other documents of relevance, namely Codes of Practice which exist for different sectors, such as agriculture, forestry, mining, construction, etc., as well as resolutions adopted by the International Conference of Labour Statisticians, one of which recognizes water fetching as own-use production work.⁵⁶ In 2016, the Organization issued a self-training handbook on water, sanitation and hygiene (WASH) at work. The handbook⁵⁷ contains three modules on water, sanitation and hygiene, which provide support on those three areas for practitioners, governments, workers and employers' organisations to implement relevant ILO standards and Codes of Practice.

The ILO has an important supervisory system through which the application of standards is examined regularly. Two kinds of mechanisms exist: (1) periodic reporting whereby Member States inform on the measures they have taken to implement ratified conventions and (2) special procedures in case of non-compliance with ratified conventions which are triggered by a complaint against a Member State

56 In 2013, the 18th International Conference of Labour Statisticians adopted a resolution concerning statistics of work, employment and labour underutilisation. In this resolution, "persons in own-use production work" are defined as "those of working age who, during a short reference period, performed any activity to produce goods or provide services for own final use", whereby production of goods covers "fetching water from natural and other sources" (para 22). Given the burden of fetching water mostly on women and children, this work has an impact on several dimensions of decent work, such as safety and the lack of remuneration, but it also exacerbates conditions of poor health and education due to the time spent collecting water. The recognition in the 2013 resolution of water fetching as work is therefore a key step to better address challenges faced by women and girls in the water sector, and the realisation of all aspects of their human right to water.

57 WASH@Work: a self-training handbook, International Labour Office 2016.

(by another Member State that has ratified the same convention, by any delegate to the International Labour Conference, or by the Governing Body itself), or a representation by an industrial association of employers or of workers against a Member State.⁵⁸

It is important to note that the various ILO instruments also entail other related issues, such as health and compliance mechanisms, which can relate to drinking water and sanitation in work places. This chapter, however, contains only explicit extracts on water and sanitation, which are from up-to-date instruments only. Other instruments, such as shelved Conventions, instruments to be revised, outdated instruments or those with a request for information status, also contain certain articles on these matters. These Conventions still apply to the Member States which have ratified them, but are no longer subject to regular supervision by the ILO.

51. ILO CONVENTIONS



ILO Forced Labour Convention, No. 29 (1930)

QUALITY



Article 17:

Before permitting recourse to forced or compulsory labour for works of construction or maintenance which entail the workers remaining at the workplaces for considerable periods, the competent authority shall satisfy itself (1) that all necessary measures are taken to safeguard the health of the workers and to guarantee the necessary medical care, and, in particular, ... (c) that the sanitary conditions of the workplaces, the supply of drinking water, ... are satisfactory.



ILO Plantations Convention, No. 110 (1958)

QUALITY
ACCEPTABILITY



Article 13(2):

The recruiter or employer shall furnish recruited workers with everything necessary for their welfare during the journey to the place of employment, including particularly, as local circumstances may require, adequate and suitable supplies of food, drinking water, ...



Article 86(1):

The minimum standards and specifications of the accommodation to be provided in accordance with the preceding Article [the provision of adequate housing accommodation for plantation workers] shall be laid down by the appropriate public authority ... (2) Such minimum standards shall include specifications concerning-- ... (c) ... water supply and sanitary facilities.

58 For more information on ILO's mechanisms, see: <http://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/lang--en/index.htm>.



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The Convention and Recommendation apply to trading establishments; establishments, institutions and administrative services in which the workers are mainly engaged in office work; in so far as they are not subject to national laws or regulations or other arrangements concerning hygiene in industry, mines, transport or agriculture, any departments of other establishments, institutions, or administrative services in which departments the workers are mainly engaged in commerce or office work (Article 1 of both instruments). The Recommendation further applies to the following establishments, institutions and administrative services:

- (a) establishments, institutions and administrative services providing personal services;
- (b) postal and telecommunications services; (c) newspaper and publishing undertakings;
- (d) hotels and boarding houses;
- (e) restaurants, clubs, cafés, and other catering establishments;
- (f) theatres and places of public entertainment and other recreational services. (Article 2 of the Recommendation)



Article 12:

A sufficient supply of wholesome drinking water or of some other wholesome drink shall be made available to workers.

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Article 13:

Sufficient and suitable washing facilities and sanitary conveniences shall be provided and properly maintained.

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**CLAUSES
ON WATER**

ILO Hygiene (Commerce and Offices) Recommendation, No. 120 (1964)

Para 28: "A sufficient supply of wholesome drinking water or of some other wholesome drink should be made available to workers. Wherever the distribution of running drinking water is practicable, preference should be given to this system."

Para 29: "(1) Any containers used to distribute drinking water or any other authorised drink should--

- (a) be tightly closed and where appropriate fitted with a tap;
 - (b) be clearly marked as to the nature of their contents;
 - (c) not be buckets, tubs or other receptacles with a wide open top (with or without a lid) in which it is possible to dip an instrument to draw off liquid;
 - (d) be kept clean at all times.
- (2) A sufficient number of drinking vessels should be provided and there should be facilities for washing them with clean water.
- (3) Cups the use of which is shared by a number of workers should be forbidden."

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Para 30: "(1) Water which does not come from an officially approved source for the distribution of drinking water should not be distributed as drinking water unless the competent health authority expressly authorises such distribution and holds periodical inspections. (2) Any method of distribution other than that practised by the officially approved local supply service should be notified to the competent health authority for its approval."

Para 31: "(1) Any distribution of water not fit for drinking should be so labelled at the points where it can be drawn off. (2) There should be no inter-connection, open or potential, between drinking water systems and systems of water not fit for drinking."

Para 66 & 67: "66. In cases to be determined by the competent authority, mess rooms should be provided for workers. 67. ... (2) Within or in the immediate vicinity of mess rooms arrangements for heating meals, cool drinking water and hot water should be available."

Para 8: "Cloakrooms, lavatories, washstands ... should be regularly cleaned and periodically disinfected."

Para 37: "Sufficient and suitable sanitary conveniences should be provided for the use of workers in suitable places and should be properly maintained."

Para 38: "(1) Sanitary conveniences should be so partitioned as to ensure sufficient privacy. (2) As far as possible sanitary conveniences should be supplied with flushing systems and traps and with toilet paper or some other hygienic means of cleaning. (3) Appropriately designed receptacles with lids or other suitable disposal units such as incinerators should be provided in sanitary conveniences for women. (4) As far as possible, conveniently accessible washstands in sufficient number should be provided near conveniences."

Para 39: "Separate sanitary conveniences should be provided for men and women, except, with the approval of the competent authority, in establishments where not more than five persons or only members of the employer's family are employed."

Para 40: "The number of W.C.'s and urinals for men, and of W.C.'s for women, should be fixed by the competent authority having regard to the number of workers."

Para 41: "Sanitary conveniences should be adequately ventilated and so located as to prevent nuisances. They should not communicate directly with workplaces, rest rooms or canteens, but should be separated therefrom by an antechamber or by an open space. Approaches to outdoor conveniences should be roofed."

Para 71 & 72: "The plans of new buildings designed for use as establishments, institutions and administrative services, or departments thereof, to which this Recommendation applies, and of new installations designed for such use in existing buildings where substantial alterations are to be made, should ... contain sufficient information concerning in particular-- (a) the location of ... sanitary facilities;"

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INTERNATIONAL LABOUR LAW

113



ILO Occupational Safety and Health (Dock Work) Convention, No. 152 (1979)

AVAILABILITY
ACCEPTABILITY
ACCESSIBILITY



Article 40:

In accordance with national laws or regulations or national practice, a sufficient number of adequate and suitable sanitary and washing facilities shall be provided and properly maintained at each dock, wherever practicable within a reasonable distance of the workplace.



ILO Occupational Safety and Health Convention, No. 155 (1981)

AVAILABILITY
QUALITY



Article 4:

1. Each Member shall, in the light of national conditions and practice, and in consultation with the most representative organisations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. 2. The aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.

ILO Occupational Safety and Health Recommendation, No. 164 (1981)

Para 1(1): "To the greatest extent possible, the provisions of the Occupational Safety and Health Convention, 1981, hereinafter referred to as the Convention, and of this Recommendation should be applied to all branches of economic activity and to all categories of workers ..."

Para 3: "As appropriate for different branches of economic activity and different types of work ..., measures should be taken in pursuance of the policy referred to in Article 4 of the Convention, in particular in the following fields: (o) sanitary installations, washing facilities, facilities for changing and storing clothes, supply of drinking water, ..."

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ILO Convention concerning Occupational Health Services, No. 161 (1985)

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Article 5:

... occupational health services shall have such of the following functions as are adequate and appropriate to the occupational risks of the undertaking: ... (b) surveillance of the factors in the working environment and working practices which may affect workers' health, including sanitary installations, canteens and housing where these facilities are provided by the employer;

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ILO Occupational Health Services Recommendation, No. 171 (1985)

Para 8: "Occupational health services should ... (b) supervise sanitary installations and other facilities for the workers, such as drinking water ... and living accommodation, when provided by the employer;"

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ILO Safety and Health in Construction Convention, No. 167 (1988)

ACCEPTABILITY
AVAILABILITY



Article 32:

1. At or within reasonable access of every construction site an adequate supply of wholesome drinking water shall be provided. 2. At or within reasonable access of every construction site, the following facilities shall, depending on the number of workers and the duration of the work, be provided and maintained: (a) sanitary and washing facilities; ... 3. Men and women workers should be provided with separate sanitary and washing facilities.

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ILO Safety and Health in Construction Recommendation, No. 175 (1988)

Para 52: "Suitable living accommodation should be made available for the workers at construction sites which are remote from their homes, where adequate transportation between the site and their homes or other suitable living accommodation is not available. Men and women workers should be provided with separate sanitary, washing and sleeping facilities."

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ILO Safety and Health in Mines Convention, No. 176 (1995)

QUALITY
AVAILABILITY
ACCEPTABILITY



Article 5:

1. National laws and regulations ... shall designate the competent authority that is to monitor and regulate the various aspects of safety and health in mines. ... 4. Such national laws and regulations shall specify: ... (e) where appropriate, an obligation to supply sufficient sanitary conveniences and facilities to wash, change and eat, and to maintain them in hygienic condition.

ILO Safety and Health in Mines Recommendation, No. 183 (1995)

Para 25: "Pursuant to Article 5, paragraph 4(e), of the Convention, employers should, where appropriate, provide and maintain at no cost to the worker: (a) sufficient and suitable toilets, showers, wash-basins and changing facilities which are, where appropriate, gender-specific; ... (c) adequate supplies of potable drinking-water in suitable places;"



ILO, Safety and Health in Agriculture Convention, No. 184 (2001)

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INTERNATIONAL LABOUR LAW

115



Article 19:

National laws and regulations or the competent authority shall prescribe, after consultation with the representative organizations of employers and workers concerned: (a) the provision of adequate welfare facilities at no cost to the worker; and (b) the minimum accommodation standards for workers who are required by the nature of the work to live temporarily or permanently in the undertaking.

ILO Safety and Health in Agriculture Recommendation, No. 192 (2001)

Para 10: "To give effect to Article 19 of the Convention, employers should provide, as appropriate and in accordance with national law and practice, to workers in agriculture: (a) an adequate supply of safe drinking water; ... (d) separate sanitary and washing facilities, or separate use thereof, for men and women workers ..."



ILO Marine Labour Convention (2006)

QUALITY
AVAILABILITY
ACCEPTABILITY
ACCESSIBILITY



Article 2:

Each Member undertakes to respect the rights and principles set out in the Regulations and to implement each Regulation in the manner set out in the corresponding provisions of Part A of the Code. In addition, the Member shall give due consideration to implementing its responsibilities in the manner provided for in Part B of the Code.

ILO Conventions No. 92, No. 126 and No. 133 on accommodation of crews contain similar articles on provision of water and sanitation facilities to those of the ILO Marine Labour Convention (MLC 2006). Convention No. 92 and 133 are instruments with an "interim status" and Convention No. 126 has a "request for information status".⁵⁹

While many important standards on water and sanitation are part of the MLC 2006 guidelines (part B of the Code) instead of being enshrined in part A of the Code, the MLC 2006 remains an important instrument for water and sanitation related labour standards for seafarers given its broader acceptance by the international community. In force since 2013, it is already ratified by over 80 States, compared to respectively 47, 23 and 32 ratifications for Conventions No. 92, 126 and 133.

ACCOMMODATION AND RECREATIONAL FACILITIES



Regulation 3.1 –

Purpose: To ensure that seafarers have decent accommodation and recreational facilities on board 1. Each Member shall ensure that ships that fly its flag provide and maintain decent accommodations and recreational facilities for seafarers working or living on board, or both, consistent with promoting the seafarers' health and well-being...

59 See e.g. ILO Convention No. 92, Art. 13; ILO Convention No. 126, Art. 12; ILO Convention No. 133, Art. 8.



Standard A3.1 –

4. The competent authority shall pay particular attention to ensuring implementation of the requirements of this Convention relating to: ... (d) sanitary facilities;

7. With respect to requirements for ventilation and heating: ... (c) all sanitary spaces shall have ventilation to the open air, independently of any other part of the accommodation;

11. With respect to requirements for sanitary facilities:

(a) all seafarers shall have convenient access on the ship to sanitary facilities meeting minimum standards of health and hygiene and reasonable standards of comfort, with separate sanitary facilities being provided for men and for women;

(b) there shall be sanitary facilities within easy access of the navigating bridge and the machinery space or near the engine room control centre; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations concerned;

(c) in all ships a minimum of one toilet, one wash basin and one tub or shower or both for every six persons or less who do not have personal facilities shall be provided at a convenient location;

(d) with the exception of passenger ships, each sleeping room shall be provided with a washbasin having hot and cold running fresh water, except where such a washbasin is situated in the private bathroom provided;

(e) in passenger ships normally engaged on voyages of not more than four hours' duration, consideration may be given by the competent authority to special arrangements or to a reduction in the number of facilities required; and

(f) hot and cold running fresh water shall be available in all wash places.

Guideline B3.1.5 – Sleeping rooms

"2. Where the size of the ship, the activity in which it is to be engaged and its layout make it reasonable and practicable, sleeping rooms should be planned and equipped with a private bathroom, including a toilet, so as to provide reasonable comfort for the occupants and to facilitate tidiness."

Guideline B3.1.7 – Sanitary accommodation

"1. Washbasins and tub baths should be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode.

2. All toilets should be of an approved pattern and provided with an ample flush of water or with some other suitable flushing means, such as air, which are available at all times and independently controllable.

3. Sanitary accommodation intended for the use of more than one person should comply with the following:

(a) floors should be of approved durable material, impervious to damp, and should be properly drained;

(b) bulkheads should be of steel or other approved material and should be watertight up to at least 23 centimetres above the level of the deck;

(c) the accommodation should be sufficiently lit, heated and ventilated;

(d) toilets should be situated convenient to, but separate from, sleeping rooms and wash rooms, without direct access from the sleeping rooms or from a passage between sleeping rooms and toilets to which there is no other access; this requirement does not apply where a toilet is located in a compartment between two sleeping rooms having a total of not more than four seafarers; and

(e) where there is more than one toilet in a compartment, they should be sufficiently screened to ensure privacy."

Guideline B3.1.8 – Hospital accommodation

"4. Sanitary accommodation should be provided for the exclusive use of the occupants of the hospital accommodation, either as part of the accommodation or in close proximity thereto. Such sanitary accommodation should comprise a minimum of one toilet, one washbasin and one tub or shower."



A similar article exists in Convention, No. 164 – art. 11

Guideline B3.1.10 – Bedding, mess utensils and miscellaneous provisions

"1. Each Member should consider applying the following principles: (c) towels, soap and toilet paper for all seafarers should be provided by the shipowner."

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FOOD AND CATERING

Regulation 3.2 –

Purpose: To ensure that seafarers have access to good quality food and drinking water provided under regulated hygienic conditions

1. Each Member shall ensure that ships that fly its flag carry on board and serve food and drinking water of appropriate quality, nutritional value and quantity that adequately covers the requirements of the ship and takes into account the differing cultural and religious backgrounds.

Standard A3.2 –

1. Each Member shall adopt laws and regulations or other measures to provide minimum standards for the quantity and quality of food and drinking water and for the catering standards that apply to meals provided to seafarers on ships that fly its flag, and shall undertake educational activities to promote awareness and implementation of the standards referred to in this paragraph.

2. Each Member shall ensure that ships that fly its flag meet the following minimum standards: (a) food and drinking water supplies, having regard to the number of seafarers on board, their religious requirements and cultural practices as they pertain to food, and the duration and nature of the voyage, shall be suitable in respect of quantity, nutritional value, quality and variety; ...

7. In accordance with the ongoing compliance procedures under Title 5, the competent authority shall require that frequent documented inspections be carried out on board ships, by or under the authority of the master, with respect to: (a) supplies of food and drinking water; (b) all spaces and equipment used for the storage and handling of food and drinking water; ...

ACCOMMODATION AND RECREATIONAL FACILITIES

Regulation 5.1.4

1. Each Member shall verify, through an effective and coordinated system of regular inspections, monitoring and other control measures, that ships that fly its flag comply with the requirements of this Convention as implemented in national laws and regulations.

2. Detailed requirements regarding the inspection and enforcement system referred to in paragraph 1 of this Regulation are set out in Part A of the Code.

Guideline B5.1.4 –

“8. Inspectors provided with proper credentials under the national law should at a minimum be empowered: ... (e) to take or remove, for the purpose of analysis, samples of products, cargo, drinking water, ...”



Similar provision in Recommendation No. 185 (1996), para 12.



ILO Work in Fishing Convention, No. 188 (2007)

**QUALITY
AVAILABILITY
ACCESSIBILITY
ACCEPTABILITY**

Article 25:

Each Member shall adopt laws, regulations or other measures for fishing vessels that fly its flag with respect to ... potable water on board.



Article 26:

Each Member shall adopt laws, regulations or other measures requiring that accommodation on board fishing vessels that fly its flag shall be of sufficient size and quality and appropriately equipped for the service of the vessel and the length of time fishers live on board. In particular, such measures shall address, as appropriate, the following issues: ... (f) sanitary facilities, including toilets and washing facilities, and supply of sufficient hot and cold water.



Article 27:

Each Member shall adopt laws, regulations or other measures requiring that: ... (b) potable water be of sufficient quality and quantity; and (c) the food and water shall be provided by the fishing vessel owner at no cost to the fisher. ...



Article 28:

1. The laws, regulations or other measures to be adopted by the Member in accordance with Articles 25 to 27 shall give full effect to Annex III concerning fishing vessel accommodation. ...



Annex III - Fishing vessel accommodation:

CLAUSES ON SANITATION

56. Sanitary facilities, which include toilets, washbasins, and tubs or showers, shall be provided for all persons on board, as appropriate for the service of the vessel. These facilities shall meet at least minimum standards of health and hygiene and reasonable standards of quality.

57. ... The sanitary facilities shall allow for reasonable privacy. ...

59. Where sanitary facilities are provided, they shall be fitted with ventilation to the open air, independent of any other part of the accommodation.

60. All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning. Floors shall have a non-slip deck covering.

61. On vessels of 24 metres in length and over, for all fishers who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet, and one washbasin for every four persons or fewer.

62. ... the competent authority may, after consultation, decide that there shall be provided at least one tub or shower or both and one washbasin for every six persons or fewer, and at least one toilet for every eight persons or fewer, where the competent authority is satisfied that this is reasonable and will not result in discomfort to the fishers. ...

CLAUSES ON WATER

78. Food and potable water shall be sufficient, having regard to the number of fishers, and the duration and nature of the voyage. In addition, they shall be suitable in respect of ... quality, quantity and variety, having regard as well to the fishers' religious requirements and cultural practices in relation to food.⁶⁰ ...

83. For vessels of 24 metres in length and over, the competent authority shall require frequent inspections to be carried out, by or under the authority of the skipper, to ensure that: ... (b) food and water supplies are sufficient;

ILO Work in Fishing Recommendation, No. 199 (2007)

Para 30: "Sanitary accommodation spaces should have ... (d) soil pipes and waste pipes of adequate dimensions which are constructed so as to minimize the risk of obstruction and to facilitate cleaning; such pipes should not pass through fresh water or drinking-water tanks, nor should they, if practicable, pass overhead in mess rooms or sleeping accommodation"

60 See also paragraph 59 on cold and hot water for hygiene. See also para 79 on establishment of minimum standards and quantity of water.

Para 31: “Toilets should be of an approved type and provided with an ample flush of water, available at all times and independently controllable. Where practicable, they should be situated convenient to, but separate from, sleeping rooms and washrooms. Where there is more than one toilet in a compartment, the toilets should be sufficiently screened to ensure privacy.”

Para 32: “Separate sanitary facilities should be provided for men and for women.”



ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries, No. 169 (1989)

The ILO Convention No. 169 on Indigenous and Tribal Peoples is the most important binding international treaty specifically on indigenous peoples' rights.⁶¹ Convention No. 169 is of particular relevance to the human rights to water and sanitation due to the strong linkages between indigenous peoples and the environment. Various traditions and subsistence activities of indigenous communities are linked to water resources, which can be negatively impacted for example by economic activities, decision-making and policies. Although the HRWS is not explicitly articulated, articles of the Convention 169 highlight important human rights principles, including the need to involve indigenous peoples in decision-making, and indigenous peoples' right to traditionally use and manage water.



Article 2:

1. Governments shall have the responsibility for developing, with the participation of the peoples concerned, co-ordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity. 2. Such action shall include measures for: ... (b) promoting the full realisation of the social, economic and cultural rights of these peoples with respect for their social and cultural identity, their customs and traditions and their institutions;



Article 4:

1. Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned.



Article 6:

1. In applying the provisions of this Convention, governments shall: (a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly; (b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them; (c) establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose. 2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.

61 Convention No. 169 was preceded by Convention No. 107, adopted in 1957, which remains binding for those States that have ratified it, but it has now the status of “outdated instrument”.

 **Article 7(4):**

Governments shall take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.

 **Article 13(2):**

The use of the term lands in Articles 15 and 16 shall include the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use.

 **Article 15(1):**

The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources.



This includes water

 **Article 30(1):**

Governments shall adopt measures appropriate to the traditions and cultures of the peoples concerned, to make known to them their rights and duties, especially in regard to labour, economic opportunities, education and health matters, social welfare and their rights deriving from this Convention.

5.2. ILO RECOMMENDATIONS (NOT LEGALLY BINDING)

ILO PROTECTION OF WORKERS' HEALTH RECOMMENDATION, NO. 97 (1953)

QUALITY
AVAILABILITY
ACCESSIBILITY
ACCEPTABILITY

Para 2: *All appropriate measures should be taken by the employer to ensure that the general conditions prevailing in places of employment are such as to provide adequate protection of the health of the workers concerned, and in particular that ... (e) sufficient and suitable sanitary conveniences and washing facilities, and adequate supplies of wholesome drinking water, are provided in suitable places and properly maintained;*

ILO WELFARE FACILITIES RECOMMENDATION, NO. 102 (1956)

QUALITY
ACCESSIBILITY
AVAILABILITY

Para 11 (1) and (2): *In undertakings where it is not practicable to set up canteens providing appropriate meals, and, where necessary, in other undertakings where such canteens already exist, messroom facilities ... should include at least ... (e) an adequate supply of wholesome drinking water.*

Para 13: *Special consideration should be given to providing shift workers with facilities for obtaining adequate meals and beverages at appropriate times.*

Para 14: *In localities where there are insufficient facilities for purchasing appropriate ... beverages ..., measures should be taken to provide workers with such facilities.*

ILO WORKERS' HOUSING RECOMMENDATION, NO. 115 (1961)

QUALITY
ACCESSIBILITY
AVAILABILITY

General Principles, Para 1: *This Recommendation applies to the housing of manual and non-manual workers, including those who are self-employed and aged, retired or physically handicapped persons.*

General Principles, Para 19: *As a general principle, the competent authority should, in order to ensure structural safety and reasonable levels of decency, hygiene and comfort, establish minimum housing standards in the light of local conditions and take appropriate measures to enforce these standards.*

Suggestions concerning methods of application, II Housing standards, Para 7: *The housing standards referred to in Paragraph 19 of the General Principles should relate in particular to ... (b) the supply of safe water in the workers' dwelling in such ample quantities as to provide for all personal and household uses; (c) adequate sewage and garbage disposal systems; (e) adequate sanitary and washing facilities, ventilation, ...;*

Suggestions concerning methods of application, II Housing standards, Para 8: *Where housing accommodation for single workers or workers separated from their families is collective, the competent authority should establish housing standards providing, as a minimum, for ... (c) adequate supply of safe water; (d) adequate drainage and sanitary conveniences;*

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ILO TENANTS AND SHARE-CROPPERS RECOMMENDATION, NO. 132 (1968)

QUALITY
ACCESSIBILITY

Para 18: *Where it is customary or necessary for the tenants, share-croppers and similar categories of agricultural workers to live on the holding, landowners should be encouraged to provide them with adequate housing conforming to standards compatible with human dignity with respect to such matters as protection against natural elements, provision of drinking-water, sanitary installations ...*

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ILO WORKERS WITH FAMILY RESPONSIBILITIES RECOMMENDATION, NO. 165 (1981)

ACCESSIBILITY
ACCEPTABILITY

Para 34: *... the competent authorities and bodies in each country should promote such public and private action as is possible to make the provision of services in the community, such as ... supply of water ... in or near workers' housing and housing with labour-saving layout, responsive to the needs of workers.*

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ILO DOMESTIC WORKERS RECOMMENDATION, NO. 201 (2011)

ACCESSIBILITY
ACCEPTABILITY

Para 17: *When provided, accommodation and food should include, taking into account national conditions, the following: ... (b) access to suitable sanitary facilities, shared or private.*

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PART B REGIONAL FRAMEWORKS

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CHAPTER 6

INSTRUMENTS ON THE HUMAN RIGHTS TO WATER AND SANITATION IN AFRICA AND THE MIDDLE-EAST

By Stéphanie Kpenou , Université de Genève/Université Paris VIII

Challenges for the realisation of the human rights to water and sanitation vary across States and regions. In many cases, however, such water challenges are mainly a governance and management issue. In Africa, watersheds are abundant but there are also existing pressures on water resources due to natural threats, such as desertification, growing scarcity and dry lands, extreme variability of climate and rainfall; all of which are exacerbated by climate change and affect the realisation of the HRWS. The political leadership in Africa has also adopted key declarations and documents which emphasise the importance of water for social, economic and environment development on the continent. States are also called upon to prioritise water and sanitation as part of the development and growth on the continent, and meet their human rights obligations, many of which arise from regional documents that lay down key standards and guidelines to follow at regional level.

This chapter identifies relevant laws and mechanisms for the human rights to water and sanitation at the regional level in Africa, along with Arab Charter on Human Rights adopted by the Arab League which includes other countries from the Middle-East. More specifically, the first section of the present chapter presents extracts from human rights treaties, along with key interpretative documents. These are namely the African Commission on Human and Peoples' Rights relevant decisions, General Comments, concluding observations on States periodic reports, and the Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights (ESCR) in the African Charter on Human and Peoples' Rights (ACHPR). The African Commission is a key mechanism for the protection and promotion of human and peoples' rights in Africa, as well as for the interpretation of the ACHPR. Although the ACHPR does not explicitly contain a provision on the HRWS, those rights are an integral part of many other human rights which are explicitly articulated in the document. The Commission has reiterated such fundamental inclusion of the HRWS throughout its various documents; the extracts of which are reproduced in this chapter. Due to the Commission's prominent role, sub-section 6.1.2 is dedicated to the institution's key non-binding documents as well as the work of special mechanisms established by the Commission. Among the most relevant documents there is namely Resolution 224 on a human rights-based approach to natural resources, as well as Resolution 300, whereby the Commission urges African Union Member States to meet their obligations in providing clean drinking water and cooperate in the management and protection of water resources. To assist States in implementing these obligations, the Working Group on Economic, Social and Cultural Rights, a subsidiary mechanism of the Commission established in 2004, is expected to issue in 2018, principles and guidelines on the right to water. Finally, in addition to human rights treaties and the work of the Commission, other instruments of relevance for the HRWS exist in the Africa region. The second (6.2.) and third (6.3.) section of this chapter provide relevant extracts from environmental law treaties and other non-binding instruments, respectively. In addition to the regional documents, it is important to note that other binding documents which entail water and sanitation issues exist at sub-regional level, such as basin charters.⁶² These, however, fall out of the scope of this handbook.

62 For example, the Southern African Development Community 2008 Protocol on Gender and Development can be highlighted. Under the Protocol, States Parties are required to "review their laws and policies that determine access to productive resources by women" in order to end all discrimination against women and girls with regard to water rights (Art. 18), and to adapt and implement various measures to ensure the provision of hygiene and sanitation facilities of women, including in prison (Art. 26). The International Conference on the Great Lakes Region Protocol on the protection and assistance to internally displaced persons is another example of relevance of sub-regional treaty containing key articles related to the human rights to water and sanitation. Ensuring access to essential water and sanitation is one of the principles found in the Annex to the Protocol. Other examples are the Senegal River Water Charter, the Niger Basin Water Charter and the Water Charter for the Lake Chad Basin, all of which explicitly refer to the right to water as a fundamental right. In addition, the instruments contain various provisions key for a human rights-based approach to water governance, such as on public participation, access to information or non-discrimination.

6.1. HUMAN RIGHTS FRAMEWORK

6.1.1. HUMAN RIGHTS TREATIES WITH KEY INTERPRETATIVE DOCUMENTS



African Charter on Human and Peoples' Rights (1981)

Complaints and reporting mechanisms under the African Charter on Human and Peoples' Rights

In the African human rights system, the African Commission on Human and Peoples' Rights plays an important role. In addition to its Special Mechanisms and resolutions on a variety of human rights (see section 6.1.2. below) the Commission also has a specific role with respect to the ACHPR. Under this Charter, States Parties are required to submit to the Commission every two years a report on the legislative or other measures taken, with a view to giving effect to the rights set out in the Charter (Article 62). The Commission has adopted numerous concluding observations and recommendations on States Parties reports which address the human rights to water and sanitation.

A Communication on alleged violations of human rights set out in the ACHPR can be submitted by any natural or legal person to the African Commission on Human and Peoples' Rights under Article 55.⁶³ Once seized by the Commission, a decision is to be taken on admissibility, considering the requirements set out under Article 56. The final decisions are called recommendations, which are not in themselves legally binding as the mandate of the Commission is quasi-judicial. The secretariat of the Commission sends letters of reminders to States that have been found to have infringed human rights set out in the Charter.

The African Court of Human and Peoples' Rights, established under the Protocol to the ACHPR on the Establishment of an African Court on Human and Peoples' Rights, reinforces the functions of the African Commission, which can submit cases to the Court. States Parties to the Protocol can make a declaration under Article 34(6) of the Protocol recognising the competence of the Court to receive cases from NGOs and individuals. To date, only 8 out of the 30 States Parties have made such declaration.⁶⁴



Right to life - Article 4:

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

63 Rules of procedure of the African Commission on Human and Peoples' Rights, Rule 93 Seizure of the Commission.

64 African Court on Human and Peoples' Rights, <http://www.african-court.org/en>.

As interpreted by the African Commission on Human and Peoples' Rights

General Comment No. 3 on the African Charter on Human and Peoples' Rights: The Right to Life (Article 4)

State obligations with respect to persons held in custody

Para 36. "When the State deprives an individual of liberty, its control of the situation yields a heightened level of responsibility to protect that individual's rights. This includes a positive obligation to ... provide the necessary conditions of a dignified life, including food, water ..."

Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (2010)

Part IV: Economic, Social and Cultural Rights enshrined in the African Charter Right to Social Security (Articles 4, 5, 6, 15; 16; 18(1), (2) and (4))

Para 82. "The right to social security imposes, amongst others, the following obligations on States parties to:

Minimum core obligations

a. Ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education consistent with human life, security and dignity."



Prohibition of torture and cruel, inhuman and degrading treatment - Article 5:

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

As interpreted by the African Commission on Human and Peoples' Rights

Complaint 292/04 - Institute for Human Rights and Development in Africa / Angola (2008)

50. "The Complaint alleges that the condition of their detention in the detention centres were inhuman as the facilities were overcrowded and unsanitary..."

51. "... At the Cafunfu detention centre, bathroom facilities consisted solely of two buckets for over 500 detainees, and these were located in the same one room where all detainees were compelled to eat and sleep. This, for the African Commission, is clearly a violation of Article 5 of the African Charter since such treatment cannot be called anything but degrading and inhuman."



Right to personal liberty and protection from arbitrary arrest - Article 6:

Every individual shall have the right to liberty and to the security of his person. ...

As interpreted by the African Commission on Human and Peoples' Rights

Concluding Observations and Recommendations on the 5th Periodic State Report of the Republic of Uganda (adopted in November 2015)

"IV. Areas Of Concern

While acknowledging the significant efforts made by the Government of Uganda to promote and protect human rights in accordance with the provisions of the African Charter, the Commission is however concerned about the following: ...

Right to liberty and security of person / Conditions of Prisons and Detention Centres

66. The poor state of prisons in Uganda which are reported as lacking adequate food, water, bedding and medical facilities, and are overcrowded and with poor sanitary conditions;"

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AFRICA AND THE MIDDLE-EAST



Right to health - Article 16:

1. *Every individual shall have the right to enjoy the best attainable state of physical and mental health.*
2. *States Parties to the present Charter shall take the necessary measures to protect the health of their people ...*



See also the Pretoria Declaration on Economic, Social and Cultural Rights in Africa, below in section 6.1.2.1.

As interpreted by the African Commission on Human and Peoples' Rights

Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (2010)

Right to Health (Article 16)

Para 63. "The determinants of health include access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions. ...

Paras 66-67. "The right of the individual to best attainable state of physical and mental health includes the following State obligations to: ... [Ill. Sexual and reproductive Health] ... rrr. ... take measures to ensure the healthy development of the new-born and the child, which include: ... 2. The provision of adequate nutrition and safe drinking water."

Right to Food (articles 4, 16 and 22)

Para 83. "... the right to food is inherent in the Charter's protection of the rights to life, health and the right to economic, social and cultural development."

Para 84. "... Enjoyment of this right will particularly depend on the enjoyment of the right to water ..."

Complaint 25/89-47/90-56/91-100/93 - Free Legal Assistance Group, Lawyers' Committee for Human Rights, Union Interfricaine des Droits de l'Homme, Les Témoins de Jehovah / DRC (1995)

47. "Article 16 of the African Charter states that every individual shall have the right to enjoy the best attainable state of physical and mental health, and that States Parties should take the necessary measures to protect the health of their people. The failure of the Government to provide basic services such as safe drinking water and electricity and the shortage of medicine as alleged in communication 100/93 constitutes a violation of Article 16.

Complaint 279/03-296/05 - Sudan Human Rights Organisation & Centre on Housing Rights and Evictions (COHRE) / Sudan (2009)

210: "Violations of the right to health can occur through the direct action of States or other entities insufficiently regulated by States. According to General Comment 14 'states should also refrain from unlawfully polluting air, water and soil, ... during armed conflicts in violation of international humanitarian law... States should also ensure that third parties do not limit people's access to health-related information and services, and the failure to enact or enforce laws to prevent the pollution of water... [violates the right to health]."

211: "In its decision on Free Legal Assistance Group and Others v. Zaire [DRC] the Commission held that the failure of the Government to provide basic services such as safe drinking water and electricity and the shortage of medicine ... constitutes a violation of Article 16."

212: "In the present communication, the destruction of homes, livestock and farms as well as the poisoning of water sources, such as wells exposed the victims to serious health risks and amounts to a violation of Article 16 of the Charter."

Concluding Observations and Recommendations on Sixth Periodic Reports of the Republic of Namibia (adopted in June 2016)

"Economic, Social and Cultural Rights

12. The Commission commends: ...

Right to Health

... viii. The various measures put in place to bring access to safe drinking water to the doorsteps of every Namibian and in particular, the provision of free water for human consumption to poor households;

ix. Meeting the MDG drinking water target;

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Institutional and Policy Measures Promoting Human Rights

... 10. The Commission commends the adoption of the following policies to guarantee human rights: ... vi. The National Sanitation Strategy 2010-2015”



Protection of the family and vulnerable groups - Article 18(1): The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral.

As interpreted by the African Commission on Human and Peoples' Rights

Social and Cultural Rights in the African Charter on Human and Peoples' Rights (2010) Right to Housing (Articles 14, 16 and 18(1))

Para 77. “In SERAC & CESR v Nigeria, the Commission held that, although the right to housing or shelter is not explicitly provided for under the African Charter, housing rights are protected through the combination of provisions protecting the right to property (art 14), the right to enjoy the best attainable standard of mental and physical health (art 16), and the protection accorded to the family (art 18(1)).”

Para 78. “The human right to adequate housing is the right of every person to gain and sustain a safe and secure home and community in which to live in peace and dignity. It includes access to natural and common resources, safe drinking water, energy for cooking, heating, cooling and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.

The right to housing imposes, amongst others, the following obligations on States parties to: ...

Evictions

ff. ... At a minimum, regardless of the circumstances and without discrimination, competent authorities shall ensure that evicted persons or groups, especially those who are unable to provide for themselves, have safe and secure access to: 1. essential food, potable water and sanitation; ..

hh. Ensure that all resettlement measures, such as construction of homes, provision of water; electricity, sanitation, ... are consistent with internationally recognised human rights principles, and completed before those who are to be evicted are moved from their original areas of dwelling.”



Right to a general satisfactory environment - Article 24: All peoples shall have the right to a general satisfactory environment favourable to their development.

As interpreted by the African Commission on Human and Peoples' Rights

Complaint 155/96 - Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) / Nigeria (2001)

50. “The Complainants allege that the Nigerian Government violated the right to health and the right to clean environment as recognised under Article 16 and Article 24 of the African Charter by failing to fulfill the minimum duties required by these rights. This, the Complainants allege, the government has done by:

- Directly participating in the contamination of air, water and soil and thereby harming the health of the Ogoni population;
- Failing to protect the Ogoni population from the harm caused by the NNPC Shell Consortium but instead using its security forces to facilitate the damage;
- Failing to provide or permit studies of potential or actual environmental and health risks caused by the oil operations.”

52. “The right to a general satisfactory environment, as guaranteed under Article 24 of the African Charter or the right to a healthy environment ... imposes clear obligations upon a government. It requires the state to take reasonable and other measures to prevent pollution and ecological degradation, to promote conservation, and to secure an ecologically sustainable development and use of natural resources. Article 12 of the

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WATERLEX

International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Nigeria is a party, requires governments to take necessary steps for the improvement of all aspects of environmental and industrial hygiene. The right to enjoy the best attainable state of physical and mental health enunciated in Article 16(1) of the African Charter and the right to a general satisfactory environment favourable to development (Article 16 (3)[sic] already noted obligate governments to desist from directly threatening the health and environment of their citizens. The state is under an obligation to respect the just noted rights and this entails largely non-interventionist conduct from the state for example, not from carrying out, sponsoring or tolerating any practice, policy or legal measures violating the integrity of the individual.”

53. “Government compliance with the spirit of Article 16 and Article 24 of the African Charter must also include ordering or at least permitting independent scientific monitoring of threatened environments, requiring and publicising environmental and social impact studies prior to any major industrial development, undertaking appropriate monitoring and providing information to those communities exposed to hazardous materials and activities and providing meaningful opportunities for individuals to be heard and to participate in the development decisions affecting their communities.”

54. “... the care that should have been taken as outlined in the preceding paragraph and which would have protected the rights of the victims of the violations complained of was not taken...”

Concluding Observations on the Combined State Report of Niger (adopted in August 2015)⁶⁵

“II. Positive aspects

The Commission: ... 52. Takes note of the plans and strategies elaborated and implemented to guarantee the right to a healthy environment to the population, notably the National Plan on Environment for Sustainable Development, the National Action Plan on Combatting Desertification and Management of Natural Resources, the National Strategy and Action Plan on Climate Changes as well as the policies and strategies for water and sanitation.

III. Factors restricting the enjoyment of human rights guaranteed by the African Charter

Despite the efforts of the Republic of the Niger to promote and protect human rights, the Commission remains highly concerned by: ...

Right to a satisfactory environment (Article 24)

96. The deterioration of environmental resources and the water pollution due to extractive industries and the extent of the phenomenon of household refuse;”

Other examples of concluding observations adopted by the African Commission

Concluding Observations and Recommendations on the Combined Second Periodic Report under the ACHPR and the Initial Report under the Protocol to the African Charter on the Rights of Women in Africa of the Republic of South Africa (adopted in June 2016)

“IV. AREAS OF CONCERN

Economic Social and Cultural Rights

31. The Commission is concerned about the: ...

Right to Water and Sanitation

v. lack of necessary infrastructure in rural areas and lack of effective cost recovery programs preventing the free disposal of water to all people;

vi. issue of acid mine drainage hindering access to safe water and sanitation;

Extractive Industries and Environment

42. The Commission is concerned about the:

i. inadequacy of regular environmental monitoring and inspection of mining companies and the issue of acid mine drainage hindering access to safe water and sanitation; such as

a) hazardous acid mine drainage resulting from coal mining in Mpumalanga; and

b) exposure of fresh sulphite minerals to elements notably in the gold fields and various coal and copper mines; ...

iii. following limitations in the Mining Charter ... c) impact of mining on the quality and availability of water and on health due to environmental degradation

65 Unofficial translation, French original.

V. RECOMMENDATIONS

47. The Commission recommends that South Africa should: ...

Right to Water and Sanitation

vi. resolve the issue of acid mine sanitation;

Extractive Industries and Environment

58. The Commission recommends that South Africa should:

i. provide adequate regular environmental monitoring and inspection of mining companies and resolve the issue of acid mine drainage hindering access to safe water and sanitation; ...

iii. take measures to address the following limitations in the Mining Charter such as: ... c) impact of mining on the quality and availability of water and on health due to environmental degradation; ..."

Concluding Observations and Recommendations on the Initial Periodic Report of the Republic of Liberia (adopted in February 2015)

"III. FACTORS RESTRICTING THE IMPLEMENTATION OF THE AFRICAN CHARTER

11. Despite the abundance of natural resources, poverty is widespread, and there is limited access to electricity and clean water. The conflict has also resulted in mass migration from rural to urban areas, fuelling unemployment and access to decent living

IV. PRINCIPAL MATTERS OF CONCERN

Right to an Adequate Standard of Living and Access to Resources

41. A large number of the population does not enjoy food security, and there is limited access to safe drinking water. ...

V. RECOMMENDATIONS

Right to an Adequate Standard of Living and Access to Resources

i. Continue its efforts to reduce poverty and improve the living standard of its people, and continue working with partners to build its capacity in areas such as healthcare, food security, access to safe drinking water, housing, electricity, roads and other basic social services;"

Concluding Observations on the 3rd Periodic Report of the Republic of Cameroon (adopted in October/November 2013)

"II. Positive aspects

The Commission: ... 30. Commends the measures taken to ensure the population's access to drinking water, including the rehabilitation and extension of drinking water supply systems, the construction and rehabilitation of water infrastructure, and the drilling of wells in major towns and villages."

Concluding Observations and Recommendations on the Initial and Combined Report of the Gabonese Republic (adopted in October/November 2013)

"III. Areas of Concern

While acknowledging the significant efforts made by the Government of Gabon to promote and protect human rights, the Commission is however concerned about the following: ... 58. The high poverty rate among indigenous populations and their limited access to basic social services such as education, health care and drinking water;"

Concluding Observations on the Initial and Combined Report of the Republic of Côte d'Ivoire (adopted in October 2012)

"V – Recommendations

... the Commission recommends the Government of the Republic of Côte d'Ivoire to: ... VI. Take the necessary measures to increase the budget allocated to ... delivery of drinking water, namely in rural areas;"⁶⁶

Concluding Observations and Recommendations on the Combined 3rd, 4th and 5th Periodic Report of the Republic of Togo (adopted in April/May 2012)

"IV –Areas of Concern

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While recognizing the efforts of the Government of Togo to promote and protect human rights and to raise awareness about the principles and provisions of the African Charter, the African Commission is concerned by: ... 62. The limited access to drinking water, and inadequate food hygiene and sanitation measures, especially in rural areas;”

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**Concluding Observations and Recommendations on the Initial, 1st, 2nd, 3rd and 4th Periodic Report of the Federal Democratic Republic of Ethiopia (adopted in May 2010)
“II – Positive Aspects**

The African Commission: ... 38. Notes the measures put in place by the [Federal Democratic Republic of Ethiopia] to reduce poverty and food shortage by way of introducing measures to reduce variations in crop production and food availability through more irrigation and water control, diversification of crops and better integration of markets, transport, and information links.

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V - Recommendations

The African Commission recommends that the FDRE should: ... 87. Increase the existing measures aimed at improving food shortage, such as irrigation, water control and diversification of crops in order to effectively avoid the heavy dependence on international food aid.”

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In addition to discussing water and sanitation in relation to other rights explicitly or implicitly enshrined in the African Charter on Human and Peoples’ Rights, the Commission’s Principles and Guidelines on the Implementation of ESCR in the Charter contain a dedicated section to the “Right to water and sanitation”. Access to water and sanitation is also addressed by the Commission in discussing the States’ key obligations as highlighted in the extracts below.

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African Commission on Human and Peoples’ Rights, Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples’ Rights (2010)

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PART III. OTHER KEY OBLIGATIONS

Equality

Para 33. “To ensure realisation of equal access to economic, social and cultural rights States should ensure the provision of basic social services (such as water, electricity, education and health care) and equitable access to resources (such as land and credit) to members of vulnerable and disadvantaged groups...”

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PART IV: ECONOMIC, SOCIAL AND CULTURAL RIGHTS ENSHRINED IN THE AFRICAN CHARTER

Right to Water and Sanitation (Articles 4, 5, 15, 16, 22 and 24)

Para 87. “While the African Charter does not directly protect the right to water and sanitation, it is implied in the protections of a number of rights, including but not, limited to the rights to life, dignity, work, food, health, economic, social and cultural development and to a satisfactory environment.”

NORMATIVE CONTENT

Para 88. “The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal, domestic, and agricultural uses. Water should be treated as a social and cultural good, and not primarily as an economic good.”

WATER AVAILABILITY

Para 89. “Sufficient water means an adequate and continuous water supply for each person’s personal and domestic use. This normally includes drinking, personal sanitation, washing of clothes, food preparation and personal and household hygiene. A sufficient amount of water is necessary to prevent death from dehydration.”

Para 90. “Safe water is water that, in particular, is free from hazardous substances (micro-organisms, chemical substances and radiological hazards) that could endanger human health, and whose colour, odour and taste are acceptable to users.”

Para 91. “Everyone has the right to have access to adequate and safe sanitation that is conducive to the protection of public health and the environment. Sanitation comprises at least, a clean toilet or latrine, together with collection, disposal and treatment of human excreta, wastewater, solid waste and storm water removal and hygiene education.”

Para 92. “The right to water and sanitation imposes the following obligations, among others, on States parties to:

Minimum Core Obligations

- a. Ensure access to the minimum essential amount of water that is sufficient and safe for personal and domestic use, including preventing disease, together with access to adequate sanitation.
- b. Ensure safe physical access to water facilities or services that provide sufficient, safe and regular water; that have an adequate number of water outlets to avoid prohibitive waiting times; and that are at a reasonable distance from the household; educational institution, workplace or health institution.
- c. Refrain from using access to water as a political tool.

National Plans, Policies and Systems

- d. Adopt a national strategy or plan of action to realize the right to water and sanitation;
- e. Take appropriate measures for the national management of water resources and the preservation of water against pollution;
- f. Promote sustainable use of water resources. Ensure that there is appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage.
- g. Adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations. Such strategies may include:
 1. reducing depletion of water resources by halting unsustainable extraction, diversion and damming;
 2. reducing and eliminating contamination of watersheds and water-related eco-systems;
 3. monitoring water reserves;
 4. ensuring that proposed developments do not interfere with access to adequate water;
 5. assessing the impacts of actions that may impinge upon water availability and natural ecosystem watersheds;
 6. reducing water wastage in its distribution;
 7. response mechanisms for emergency situations; and
 8. establishing competent institutions and appropriate institutional arrangements to carry out the strategies and programmes;
- h. Formulate and implement national water and sanitation strategies and plans of action that should respect, *inter alia*, the principles of non-discrimination and ensure the right of everyone to participate in decision-making affecting their right to water and sanitation;
- i. Take steps to ensure that local government authorities and other governance entities not part of central government manage water and sanitation services in their own areas, and under their authority so as to facilitate universal access to water and sanitation in sufficient quantity, quality and continuity, and at an affordable and equitable price. States should promote pro active citizen involvement in defining water and sanitation policies at the local level in a democratic and inclusive manner. In this regard states parties should increase financing for local water and sanitation infrastructure to address the needs of poor persons and peoples lacking access to water and sanitation; and contribute to developing local government capacity to improve effective water supply and sanitation services

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j. Ensure that the private ownership of water and sanitation services, or any privatisation of water and sanitation services, does not take place in the absence of a clear and efficient regulatory framework that ensures sustainable access to safe, sufficient, physically accessible and affordable water and sanitation. States are obligated to regulate and monitor private water and sanitation providers to ensure that they do not violate the right to access to water and sanitation.



**Privatisation
and regulation**

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k. Ensure that procedures for the disconnection of water and sanitation services are reasonable and only occur after timely and full disclosure of information and include legal recourse and remedies as well as legal assistance. Ensure that procedures take into account the individual's ability to pay and therefore disconnections for non-payment should not result in a person being denied access to a minimum amount of safe drinking water where that person proves that he or she is unable to pay for these basic services. The quantity of safe drinking water a person can access may be reduced, but full disconnection may only be permissible if there is access to an alternative source.



**Affordability and
disconnection
from services**

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l. Ensure that the export of water resources does not limit the full enjoyment of the right to water within the country;

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m. Take steps on a non-discriminatory basis to prevent threats to health from unsafe and toxic water conditions.

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n. Ensure that natural water resources are protected from contamination by harmful substances and pathogenic microbes. This includes strict controls of the use and pollution of water resources for industrial purposes, and especially of extractive industries in rural areas.



**Safety of water
resources**

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o. Monitor and combat situations where aquatic eco-systems serve as a habitat for vectors of diseases wherever they pose a risk to human living environments.

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Vulnerable Groups, Equality and Non Discrimination

p. Ensure that all water and sanitation facilities and services are of sufficient quality, affordable, culturally appropriate and meet the needs of members of vulnerable and disadvantaged groups. To this end relatively low-cost targeted water programmes to protect these groups should be adopted.

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q. Ensure appropriate water and sanitation pricing policies, including through flexible payment schemes and cross-subsidies from high-income users to low-income users. Subsidize water and sanitation services for low-income households and poor areas that lack the means to secure access to such services. Subsidies should normally be used for connection to distribution networks or for the construction and maintenance of small-scale water supply and sanitation facilities, such as wells, boreholes and latrines.

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r. No one should be denied access to water and sanitation because of their housing or land status. Informal human settlements should be upgraded through the provision of water and sanitation services and through assistance with the construction of their own water and sanitation facilities.

s. Progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account the needs of women and children.

t. Ensure that disadvantaged and marginalised farmers, including women farmers, have equitable access to water and water management systems, including sustainable rain harvesting and irrigation technology.

u. Ensure that there is adequate access to water for subsistence farming and for securing the livelihoods of peoples, including indigenous communities/populations.

v. Ensure that imprisoned and detained persons have access to sufficient, safe and acceptable water and sanitation. In addition to sufficient water prisoners and detainees should be allowed to bath every day and should be provided with soap, sheets, and detergents for clothes."



The role of the African Committee of Experts on the Rights and Welfare of the Child on reporting and complaints mechanisms

Under the African Charter of the Rights and Welfare of the Child, reporting is required for every State Party. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC), established through Article 32 of this Charter, receives reports from States Parties on the implementation of their obligations under the Charter (Article 43). The consideration of State Parties reports is followed by the issuance of concluding observations and/or recommendations⁶⁷ by the Committee, which highlights major issues of concern and makes recommendations to States Parties on the measures that can be adopted to address them.

In addition, the Committee has the competence to hear complaints from individuals on alleged violations of human rights enshrined in the Charter (Article 44). According to the website of the ACERWC, to date, 10 communications have been received against State Parties, among which 4 have been finalised. Among these four, one is of particular relevance for the human rights to water and sanitation, in relation to Article 14 of the African Charter on the Rights and Welfare of the Child. In 2014, the Committee has adopted revised guidelines for the consideration of communications⁶⁸, establishing and regulating the procedure to be followed in dealing with Communications submitted under Article 14 of the Charter.



Survival and development - Article 5:

1. Every child has an inherent right to life... 2. States Parties to the present Charter shall ensure, to the maximum extent possible, the survival, protection and development of the child. ...

As interpreted by the African Committee of Experts on the Rights and Welfare of the Child

Concluding observations and recommendations addressed to the Government of Lesotho on the State's initial report (considered in November 2015)

“The right to life, survival and development

19. The Committee commends that the Government is trying to supply clean water through the rural water supply department. The Committee calls upon the State Party to strengthen this department and provide it with necessary budget to ensure that communities in rural areas have access to clean drinking water.”

Concluding recommendations addressed to the Republic of Rwanda on the State's second and third periodic report (considered in April 2015)

“Right to life, survival and development

14. The Committee observed some indications that access to clean water in rural areas is limited and that the water systems in rural areas are not functioning properly. Therefore, the Committee recommends that the State Party intensifies its efforts in rural areas to reduce the urban-rural disparity in access to clean water.”

67 Concluding observations are published on the website of the ACERWC: <http://www.acerwc.org/concluding-observations>.
68 ACERWC, Revised Guidelines for the Consideration of Communications, 2014, available at: http://www.acerwc.org/download/revised_communications_guidelines-2/?wpdmcl=8763.

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Concluding recommendations addressed to the Republic of Cameroon on the State's report (considered in November 2016)

"Survival and Development

13. ... the Committee would like to have information with regards to the efforts of the State Party in: ... Universal access to drinking water and sanitation services."



Education - Article 11(1):

Every child shall have the right to education.

As interpreted by the African Committee of Experts on the Rights and Welfare of the Child

Recommendations addressed to the Republic of the Sudan on the State's initial report (considered in November 2012)

"Article 11: Education

P.3. ... The Committee recommends to the Government of the Republic of The Sudan to ... build and equip schools close to residential areas that are lacking in that regard, with separate potable water and sanitary facilities."

Recommendations and observations addressed to the Government of Senegal on the State's initial report⁶⁹

"Article 11: Education

The Committee notes that schools are not adapted to the needs of girls due to the lack of separate toilets – especially for girls who have reached puberty... . The Committee suggests to ... implement water outlets, to construct separate sanitary facilities"



Health and health services - Article 14:

- 1. Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health.**
- 2. States Parties to the present Charter shall undertake to pursue the full implementation of this right and in particular shall take measures: ... (c) to ensure the provision of adequate nutrition and safe drinking water; ... (h) to ensure that all sectors of the society ... are informed ... of ... the advantages of ... environmental sanitation ...**



Requirement to take measures to ensure safe drinking water, and to ensure all sectors of the society are informed on environmental sanitation

As interpreted by the African Committee of Experts on the Rights and Welfare of the Child

Complaint No 003/Com/001/2012 - The Centre for Human Rights (University of Pretoria) and la Rencontre Africaine pour la Défense des Droits de l'Homme (Senegal) vs. Government of Senegal (2012)

52. "The efforts undertaken by the State Party in realizing [the right to health] should be directed towards the prevention of diseases and health problems, and the provision of the necessary health care services. In ensuring adequate nutrition and safe drinking water to all children, the CRC committee emphasized that school feeding programmes, and the provision of safe and clean drinking water are essential to combat disease and malnutrition. Failure to provide safe drinking water amounts to a violation of the right to the best attainable health under the Charter."

55. "As submitted by the complainants, the talibés are not practically entitled to adequate sanitation and nutrition which in effect endangers their health. The Committee notes that the marabouts as caregivers have failed to ensure that the talibés get medical service."

56. "Hence the Committee concluded that the Respondent State has failed to provide the necessary sanitation and nutrition to the talibés and it has also failed to take measures against the marabouts, who accommodate talibés in squalid health conditions. The Respondent

69 Unofficial translation, French original.

State has not taken appropriate steps within its available resource to prevent disease and malnutrition, as well as to avoid barriers to access the health services of those children in need of medical care. Therefore, the Committee finds the Respondent State in violation of Article 14 of the Charter.”

Recommendations and observations addressed to Burkina Faso on the State’s initial report (considered in November 2009)⁷⁰

Article 14: Health and Health Services

P. 4. “The Committee recommends ... that measures be taken for a better sanitary coverage enabling the population to easily access primary health care services Special attention must be given to rural areas, specifically to the endemic villages of Ver de Guinée, which are left without water source, wells or boreholes.”

Concluding recommendations addressed to Tanzania on the State’s report (considered in November 2010)

Water supply in both jurisdictions

P. 7. “The Committee observes that there are no effective constitutional, policy or legislative provisions in both parts of the State Party that guarantee, promote and protect the right to water and sanitation as envisaged in Article 14 (2)(c) of the ACRWC [African Charter on the Rights and Welfare of the Child]. The Committee also observes that many children in rural areas have to walk long distances (over 5kilometres) per day to access water, which from all indication is not safe.

The Committee recommends that in order for the State Party to guarantee the right to water and sanitation in respect of children as envisaged in Article 14 (2)(c) of the ACRWC, the State Party should enact constitutional, policy and legislative provisions to this effect. The Committee also urges the State Party to ensure that the pace at which new water schemes and rehabilitation and/or expansion of existing water schemes and sanitation services is taking place is increased by the State Party since, for instance, only 122 out of 794 water schemes were rehabilitated between 1998 and 2003 which only constitutes 15% of the schemes for a period of five years. In addition, efforts should be made to ensure a balanced supply of water to children in both the Mainland and Zanzibar, to assure non-discrimination in water supply.”

Concluding recommendations addressed to the Government of Togo on the State Party initial report (considered in March 2011)⁷¹

Article 14: Health and Health Services

P. 5. “... the Committee notes a crucial lack of sources of drinking water and sanitation causing the population to consume unsuitable water, causing diseases. There are also floods, which have caused enormous loss of life, displacement of populations, epidemics and interruptions in the schooling of children.

The Committee asks the government to take all necessary and urgent measures to enable the entire population to access drinking water... The Committee encourages the Togolese government to ... improve the sanitary coverage of children.”

Concluding recommendations addressed to the Republic of Rwanda on the State’s second and third periodic report (considered in April 2015)

F. Basic health and welfare

25. “The Committee ... commends the State Party for increasing its budget for the health sector and becoming one of the few African Countries who have complied with the Abuja Declaration...”

26. “... The Committee recommends that the State Party continues its efforts to construct water reservoirs to increase the coverage of improved drinking water in rural areas of the country.”

Concluding observations and recommendations to the Republic of Madagascar on the State’s initial report (considered in April 2015)

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AFRICA AND THE MIDDLE-EAST

70 Unofficial translation, French original.

71 Unofficial translation, French original.

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F. Basic health and welfare

35. "... The Committee also recommends that the State Party increases its budget allocation for the purification of water and fortifies its efforts to build dams and establish pipe drinking waters in order to ensure sustainable access to safe drinking water. Moreover, the Committee encourages the State party to upgrade the living conditions of children through investing on housing, latrines and basic welfare facilities with its available resource."

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Concluding observations and recommendations addressed to the Government of Lesotho on the State's initial report (considered in November 2015)**F. Basic health and welfare**

34. "... The Committee urges the State Party among others to: ... c. Promote sanitation and provide sanitary facilities to poor communities; d. Launch programs and strategies to increase access to clean drinking water in rural areas..."

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Concluding recommendations addressed to the State of Eritrea on the State's report (considered in November 2016)**F. Basic health and welfare**

16. "... The Committee ... recommends that the State Party to: ... Implement measures to address the under 5 mortality rate and improve sanitation; ..."

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Concluding recommendations addressed to the Republic of Cameroon on the State's report (considered in November 2016)**F. Basic Health and Welfare**

19. "... The Committee urges the State Party to ... Set in place measures to increase access to safe drinking water and improve sanitation"

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**Refugee children - Article 23:**

1. States Parties to the present Charter shall take all appropriate measures to ensure that a child who is seeking refugee status ... receive appropriate protection and humanitarian assistance in the enjoyment of the rights set out in this Charter and other international human rights and humanitarian instruments to which the States are Parties.

As interpreted by the African Committee of Experts on the Rights and Welfare of the Child

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Concluding recommendations addressed to the Republic of Cameroon on the State's report (considered in November 2016)**Refugee children**

26. "... The Committee ... recommend that the State Party; ... Reinforce assistance in water supply, hygiene and sanitation in the refugee campsites; ..."

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**Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003)**

The Protocol to the ACHPR on the Rights of Women contains an important clause which explicitly requires States Parties to take measures to provide women with access to clean drinking water.

In terms of mechanisms, States Parties indicate in their periodic reports under the ACHPR the legislative and other measures undertaken for the realisation of the rights in the Protocol (Article 16). Observations and recommendations on States Parties' reports can be found under the extracts from the African Charter on Human and Peoples' Rights.



Right to Food Security - Article 15:

States Parties shall ensure that women have the right to nutritious and adequate food. In this regard, they shall take appropriate measures to: a) provide women with access to clean drinking water, ...

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AFRICA AND THE MIDDLE-EAST



African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (2009)

To monitor and review the implementation of the objectives of the Convention, a Conference of States Parties is established under Article 14.



Protection and assistance to internally displaced persons in situations of armed conflict - Article 7:

5. Members of armed groups shall be prohibited from: ... c. Denying internally displaced persons the right to live in satisfactory conditions of dignity, security, sanitation, food, water, health and shelter; and separating members of the same family; ...



Obligations of States Parties relating to protection and assistance during internal displacement - Article 9:

2. States Parties shall: ... b. Provide internally displaced persons to the fullest extent practicable and with the least possible delay, with adequate humanitarian assistance, which shall include food, water, shelter, medical care and other health services, sanitation, education, and any other necessary social services, and where appropriate, extend such assistance to local and host communities; ...

6.1.2. THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS: OTHER DOCUMENTS AND MECHANISMS

The African Commission on Human and Peoples' Rights has also adopted key documents which can guide, promote and support the implementation of various human rights, including the human rights to water and sanitation. This sub-section gathers relevant resolutions and non-binding documents, such as guidelines, before setting out the mandate of the Working Group on Economic, Social and Cultural Rights. The sub-sections above provide additional information on the role of the African Charter on Human and Peoples' Rights with respect to the treaties identified.

6.1.2.1. RESOLUTIONS AND OTHER NON-BINDING DOCUMENTS

7 December 2004, 36th Ordinary Session - Resolution 73 on Economic, Social and Cultural Rights in Africa

The African Commission on Human and Peoples' Rights ... 1. Adopts the attached Declaration of the Pretoria Seminar on Economic, Social and Cultural Rights in Africa, adopted on 17 September 2004, in Pretoria, South Africa;

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Pretoria Declaration on Economic, Social and Cultural Rights in Africa (2004)

"... Adopted at a seminar in Pretoria, South Africa in September 2004 at which representatives of the Commission, 12 African states, national human rights institutions and NGOs participated...

The participants state that: ... 7. The right to health in article 16 of the Charter entails among other things the following: ... c. Access to basic shelter, housing and sanitation and adequate supply of safe and potable water;"

2 May 2012, 51st Ordinary Session - Resolution 224 on a Human Rights-Based Approach to Natural Resources⁷²

The African Commission on Human and Peoples' Rights ... Nothing that there has recently been rapid progress in the definition of minimum international standards with respect to natural resources required to maintain life itself, in particular the recent recognition of the human right to food and the human right to water and sanitation; ...

Calls upon States Parties to:

1. Reaffirm that, in accordance with the Rio Declaration and African Charter principle of State sovereignty over natural resources, the State has the main responsibility for ensuring natural resources stewardship with, and for the interest of, the population and must fulfill its mission in conformity with international human rights law and standards;

2. Confirm that all necessary measures must be taken by the State to ensure participation, including the free, prior and informed consent of communities, in decision making related to natural resources governance; ...

3. Ensure that respect for human rights in all matters of natural resources exploration, extraction, toxic waste management, development, management and governance, in international cooperation, investment agreements and trade regulation prevails, and in particular:

1. Establish a clear legal framework for sustainable development as it impacts on natural resources, in particular water, that would make the realization of human rights a prerequisite for sustainability; ...

3. Set up independent monitoring and accountability mechanisms that ensure that human rights are justiciable and extractive industries and investors legally accountable in the country hosting their activities and in the country of legal domicile;

4. Ensure independent social and human rights impact assessments that guarantee free prior informed consent; effective remedies; fair compensation; women, indigenous and customary people's rights; environmental impact assessments; impact on community existence including livelihoods, local governance structures and culture, and ensuring public participation; protection of the individuals in the informal sector; and economic, cultural and social rights.

May 2014, 55th Ordinary Session, Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa

The African Commission on Human and Peoples' Rights ... Hereby adopt the following Guidelines on the use and conditions of police custody and pre-trial detention in Africa: ...

4. RIGHTS OF AN ARRESTED PERSON

The following rights shall be afforded to all persons under arrest: ... e. The right to humane and hygienic conditions during the arrest period, including adequate water, food, sanitation ...

32. WOMEN

b. Safeguard for arrest and detention

If arrest, custody and pre-trial detention is absolutely necessary, women and girls shall: ... v. Be provided with the facilities and materials required to meet their special hygiene needs, and offered gender-specific health screening and care with accords with the rights to dignity and privacy ...

72 See also Resolution 231 on the right to an adequate housing and protection from forced evictions, adopted in 2012 at 52nd Ordinary Session of the African Commission on Human and Peoples' Rights.

28 February 2015, 17th Extraordinary Session, Resolution 300 on the Right to Water Obligations⁷³

The Commission: Urges African Union Member States to meet their obligations in providing clean drinking water for all their populations and to conscientiously cooperate in the management and protection of water resources, and to:

1. *protect the quality of national and international water resources and the entire riverine ecosystem, from watersheds to oceans;*
2. *ensure the rational and equitable use of water resources through the distribution of water resources to meet, in priority, the vital human needs of the populations concerned, in particular access to drinking water in sufficient quantity for personal and domestic use, sanitation, agriculture and other means of subsistence;*
3. *recognize, protect and develop traditional and local water management systems for indigenous populations on their ancestral lands as well as local communities, and protect water resources from abusive use and pollution;*
4. *establish mechanisms for the participation of individuals and communities in decision-making on the management of water resources;*
5. *guarantee the justiciability of the right to water;*
6. *build the capacity of populations in human rights education, including the right to water and protection mechanisms; and*
7. *comply with the principle of non-discrimination within and among riparian populations, and take into account the needs of vulnerable persons, in particular women and children, persons with disabilities, elderly persons, rural populations living in geographically inaccessible areas, displaced persons, refugees and persons deprived of their liberty.*

The Commission requests the Working Group on Economic, Social and Cultural Rights to prepare principles and guidelines on the right to water to assist States in the implementation of their obligations.

March 2017, Banjul Declaration of the 59th Ordinary Session of the African Commission on Human and Peoples' Rights under the theme "Women's Rights: Our Collective Responsibility"

Part Two: Concerning Activities of Special Mechanisms in Relation to Women's Rights, the African Commission declares: ...

E. Economic, Social and Cultural Rights:

38. *States should adopt legislation, policies and programmes to ensure women's full enjoyment of economic, social and cultural rights enshrined in the African Charter;*
39. *States should reform land tenure legislation to enable women to own and inherit land, introduce and implement sustainable measures to ensure women have access to water and include women in decision making processes on water and land issues; and*
40. *States, NHRIs and CSOs are encouraged to intensify awareness around land and water rights of women, and join the campaign to enable women and girls to have access to land and water.*

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73 The resolution was developed through a series of consultations that included a 2013 draft proposed jointly by various NGOs, including WaterLex.

6.1.2.2. SPECIAL MECHANISM: THE WORKING GROUP ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

While there is no special mechanism dedicated to the human rights to water and sanitation in the Africa region, the ACHPR established in 2004 the Working Group on Economic, Social and Cultural Rights, which works also on HRWS-related matters. Resolutions 73 and 193 inform on the mandate of the Working Group, which includes studies and research on specific economic, social and cultural rights. The current chair of the Working Group is Mrs. Jamesina Essie L. King, appointed through resolution 316.⁷⁴

Similar to the international level, the HRWS are also addressed by other special mechanisms in the region. For example, the Working Group on Indigenous Populations / Communities in Africa discussed access to water and sanitation during various country visits, formulating recommendations to Governments on those matters.⁷⁵ Such issues were also monitored by the Special Rapporteur on Prisons and Conditions of Detention in Africa in its country reports.⁷⁶

Throughout the years, intersession activity reports of the Working Group on Economic, Social and Cultural Rights have addressed the work undertaken by this mechanism; some reports highlighting also the activities related to the human rights to water and sanitation. The Working Group is developing Principles and Guidelines on the Right to Water, which are to be published in 2018.

49th Ordinary Session - Intersession Report (April - May 2011) By Mr Béchir Khalfallah

9. It is also recommended to all States Parties to the African Charter to implement appropriate policies for the realization of the economic, social and cultural rights, including education, health and access to potable water.

53rd Ordinary Session - Intersession Report (March 2013) By Mr Béchir Khalfallah

11. It should be underscored that the situation of economic, social and cultural rights in Africa is still one of serious concern. Access to drinking water ... remain illusory for many Africans.

58th Ordinary Session - Inter-Session Activity Report (November 2015 - April 2016) of Honourable Commissioner Jamesina Essie. King

18. The purpose of the [Working Group meeting of 5 April in Banjul] was to discuss the implementation of its 2015-2018 work plan, as well as the development of Guidelines on the Right to water Obligation pursuant to the tasks given to the Working Group in Resolution ACHR/Res.300 (EXT.OS/XVI) 2015, on the Right to Water. The Guidelines aims at assisting States in implementation of their Charter obligations (the Guidelines).

19. The Working Group evaluated the progress of drafting the Guidelines on Water Obligation; developed an implementation plan for the Resolution; evaluated the implementation of the Work Plan; and discussed the sources and methods of funding for activities to be undertaken within the framework of the Work Plan;

74 Prior to Ms. Jamesina E.L. King, the previous chairpersons of the working group were Commissioner Angela Melo (appointed in Resolution 124 - 2007), and Commissioner Mohamed Bechir Khaifallah (appointed in Resolution 146 - 2009 and Resolution 193 - 2011).

75 Report of the country visit of the Working Group on indigenous populations/communities to the Republic of Congo 15 – 24 March 2010, pp. 10 and 58; Report of the African Commission's Working Group on Indigenous populations/communities mission to the Republic of Rwanda, 1-5 December 2008, p. 50; Report of the African Commission's Working Group on Indigenous populations/communities mission to the Republic of Niger, 14 – 24 February 2006, pp. 67-68.

76 Report to the Government of the Republic of Cameroon on the visit of the Special Rapporteur on Prisons and Conditions of Detention in Africa. From 2 to 15 September 2002, pp. 14 and 20; Report of the Mission of the Special Rapporteur on Prisons and Conditions of Detention in Africa- to the Federal Democratic Republic of Ethiopia 15 – 29 March 2004, pp. 20, 29 and 45; Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa Mission to the Republic of South Africa 14 – 30 June 2004, p. 22; etc.

59th Ordinary Session - Inter-Session Activity Report (April 2016 - October 2016) of Honourable Commissioner Jamesina Essie L. King

20. In 2015, the African Commission adopted the Resolution 300 on the right to water. The Resolution gives mandate to the ACHPR Working Group on Economic, Social and Cultural Rights to develop 'principles and guidelines on the right to water to assist States in the implementation of their obligations'.



See resolution No. 300 above in section 6.1.2.1.

21. Thus, Experts of the Working Group have prepared a first draft of the principles and guidelines which will be published on the website of the Commission for comments from stakeholders. State parties, partners and other stakeholders should be informed that the objective of the principles and guidelines on the right to water is to provide a useful tool for States to understand their obligations concerning the respect for, protection and fulfilment of the right to water and guidelines for monitoring the right.

60th Ordinary Session - Inter-Session Activity Report (November 2016 - May 2017) of Honourable Commissioner Jamesina Essie L. King

25. The Draft Principles and Guidelines on the Right to Water is still being reviewed for publication on the website of the Commission for comments from Stakeholders. ...

6.1.3. HUMAN RIGHTS INSTRUMENT IN NORTHERN AFRICA AND THE MIDDLE EAST



The Arab Charter on Human Rights (2004)

The Arab Charter on Human Rights,⁷⁷ adopted by the League of Arab States, entered into force in 2008. As the League of Arab States is composed of Arab States, some North-African States can be part of the Arab Charter on Human Rights as well as other human rights instruments listed in section 6.1.1.

The Charter established an Arab Human Rights Committee under Article 45. The instrument does not foresee mechanisms for individual complaints, but it contains clauses on a reporting mechanism on the measures taken by States Parties to give effect to the rights enshrined in the Charter.



Right to an adequate standard of living – Article 38:

Everyone shall have the right to an adequate standard of living for himself and his family, ensuring well-being and a decent life, including adequate food, clothing, housing, services and a right to a safe environment. The States Parties shall take appropriate measures within their available resources to ensure the realization of this right.



Right to health - Article 39:

1. The State Parties shall recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the right of every citizen to enjoy free and non-discriminatory access to health services and health care centres.

77 The translation of the Charter can be found in Mohammed Amin Al-Midani and Mathilde Cabanettes, 'Arab Charter on Human Rights 2004' 24 (2006) Boston University International Law Journal 147, available at: <http://www.icnl.org/research/library/files/Transnational/arabcharter2004en.pdf>.

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2. The steps to be taken by the State Parties shall include those necessary to: ... e. Ensure basic nutrition and clean water for everybody. f. Fight environmental pollution and supply sanitation systems. ...

6.2. ENVIRONMENTAL LAW TREATIES⁷⁸



African Convention on the Conservation of Nature and Natural Resources (1968)



Fundamental Principle - Article II:

The Contracting States shall undertake to adopt the measures necessary to ensure conservation, utilization and development of soil, water, flora and faunal resources in accordance with scientific principles and with due regard to the best interests of the people.



Water - Article V:

1. The Contracting States shall establish policies for conservation, utilization and development of underground and surface water, and shall endeavour to guarantee for their populations a sufficient and continuous supply of suitable water ...



African Convention on the Conservation of Nature and Natural Resources (2003) (revised)⁷⁹



Water - Article VII:

1. The Parties shall manage their water resources so as to maintain them at the highest possible quantitative and qualitative levels. They shall, to that effect take measures designed to:

- a) maintain water-based essential ecological processes as well as to protect human health against pollutants and water-borne diseases, ...*
- c) prevent excessive abstraction, to the benefit of downstream communities and States.*

2. The Parties shall establish and implement policies for the planning, conservation, management, utilization and development of underground and surface water, as well as the harvesting and use of rain water, and shall endeavour to guarantee for their populations a sufficient and continuous supply of suitable water, ...



Annex 2: Conservation areas

Protected Landscape/Seascape: protected area managed mainly for landscape/seascape conservation and recreation

Objectives of Management ... to bring benefits to and to contribute to the welfare of, the local community through the provision of ... services (such as clean water ...).

⁷⁸ As mentioned earlier, other sub-regional treaties which relate to water and sanitation exist also in the area of environmental law. See footnote 62 above.

⁷⁹ The relationships between Parties to the original Convention and Parties to the revised Convention are governed by the provision of the original Convention. See Article XXXIV.

6.3. OTHER INSTRUMENTS, RESOLUTIONS AND DECLARATIONS

DURBAN POLITICAL DECLARATION SIGNED ON THE OCCASION OF THE WORLD WATER DAY ON 22 MARCH 2017 (2017)

We [High Level Panel on Water, African Ministers Council on Water (AMCOW), Inter-sectoral Ministers, UNESCO Special Envoy for Water in Africa United Nations Agencies, Provincial and Local Governments, Business people, Labour Major Groups (Women, Youth, people living with disability) and representatives of Governments and Civil Society gathered in Durban, South Africa, on the occasion of the 2017 World Water Day ... resolve and commit ourselves to:

1. Support and strengthen the implementation of Sustainable Development Goal 6 on Water and Sanitation and related goals by ensuring coherence in the implementation of our policies in line with the HLPW Action Plan.

3. Request the African heads of States and Government through African Union Commission (AUC) to prioritize Water and Sanitation as central to Africa's Economic Development and Growth...

4. Increase budgetary allocation to match the central role of water security and sanitation in Agenda 2030 and in line with the Sharm El Sheikh declaration, request, AMCOW, African Development Bank (AfDB) and AUC in collaboration with development partners, to convene meetings of Ministers responsible for Water, and Finance to develop and implement appropriate financing policies and models for water and sanitation.



See the Sharm El Sheikh declaration, below.

PAN-AFRICAN PARLIAMENT - RESOLUTION ON THE FUNDAMENTAL RIGHT OF ACCESS TO WATER AND SANITATION - PAP.3/PL/RES.13(II) (2013)

Recognising that water and sanitation are a fundamental right, essential to the well-being, health, dignity and development of our African peoples and our States; ... The Pan-African Parliament: ...

1. Undertakes to defend the principles and actions on the importance of water and sanitation at the national, regional and continental levels; ...

4. Congratulates and encourages WaterAid, WaterLex and all other partners in their support of the Pan-African Parliament in implementing its programmes related to access to water and sanitation for all.

ABUJA DECLARATION, DECLARATION OF THE FIRST AFRICA-SOUTH AMERICA SUMMIT (2006)

We the Heads of State and Government of Africa and South America ...
VI. Water Resources

18. We recognize the importance of water as a natural resource of State that is an essential element for life with a socio-economic and environmental functions. We shall promote the right of our citizens to have access to clean and safe water and sanitation within our respective jurisdictions.



Explicit mention of the HRWS

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ETHEKWINI DECLARATION MADE AT THE AFRICASAN+5 CONFERENCE ON SANITATION AND HYGIENE, DURBAN (2008)

The eThekweni Declaration is of importance for the right to sanitation in the Africa region namely due to the commitment by 32 African countries to allocate budget for sanitation and hygiene programmes.

We, the Ministers and Heads of Delegations responsible for sanitation and hygiene from 32 African countries, together with senior civil servants, local government officials, professionals from sector institutions, academia, civil society, development partners, and the private sector under the auspices of the African Ministers' Council on Water and Sanitation (AMCOW), and the other co-hosts of AfricaSan at the Second African Conference on Hygiene and Sanitation in Durban, South Africa, February 18–20, 2008: ...

Do hereby pledge ourselves to the following "eThekweni commitments on sanitation": ...

3. To establish, review, update and adopt national sanitation and hygiene policies within 12 months of AfricaSan 2008; establish one national plan for accelerating progress to meet national sanitation goals and the MDGs by 2015, and take the necessary steps to ensure national sanitation programs are on track to meet these goals; ...

5. To ensure that one, principal, accountable institution takes clear leadership of the national sanitation portfolio; establish one coordinating body with specific responsibility for sanitation and hygiene, involving all stakeholders, including but not limited to those responsible for finance, health, water, education, gender, and local government;

6. To establish specific sector budget allocations for sanitation and hygiene programs. Our aspiration is that these allocations should be at a minimum of 0.5% of GDP for sanitation and hygiene; ...

7. To use effective and sustainable approaches, such as household and community led initiatives, marketing for behavior change, educational programs, and caring for the environment, which make a specific impact upon the poor, women, children, youth and the unserved.

SHARM EL-SHEIKH COMMITMENTS FOR ACCELERATING THE ACHIEVEMENT OF WATER AND SANITATION GOALS IN AFRICA, AU DOC. ASSEMBLY/AU/DECL.1(XI), (2008)

The Sharm El-Sheikh Commitments demonstrate the importance of water and sanitation for the social, economic and environment development of African countries. Adopted by the Assembly of the African Union, they represent a high-level political commitment to advance water and sanitation on the continent.

WE, the Heads of State and Government of the African Union, meeting at the 1th Ordinary Session of our Assembly in Sharm El-Sheikh, Arab Republic of Egypt, from 30 June to 1 July 2008, ... WE COMMIT OURSELVES TO: ...

d) develop and/or update national water management policies, regulatory frameworks, and programmes, and prepare national strategies and action plans for achieving the MDG targets for water and sanitation over the next seven (7) years;

f) Ensure the equitable and sustainable use, as well as promote integrated management and development, of national and shared water resources in Africa; ...

i) Significantly increase domestic financial resources allocated for implementing national and regional water and sanitation development activities and call upon Ministers of water and finance to develop appropriate investment plans; ...

(l) Promote effective engagement of African civil society and public participation in water and sanitation activities and programmes;

(m) Promote programming that addresses the role and interests of youth and women, given that the burden of poor water and sanitation falls disproportionately on women and children; ...

TUNIS MINISTERIAL DECLARATION ON ACCELERATING WATER SECURITY FOR AFRICA'S SOCIO- ECONOMIC DEVELOPMENT, AMCOW, 2008

1. We, the ministers responsible for water in Africa and present at the First African Water Week ... 8. ... we call upon our governments, national and regional organisations, the international community, and development partners, to extend ... support to the following quick impact actions:

...

b. Meeting the Water and Sanitation MDGs

- Prioritize and increase water and sanitation expenditures in national budgets;
- Increase, systematically, resources allocated to local governments for the implementation of water and sanitation projects; ...

c. Financing Infrastructure for Water Security Objectives

- Direct more financial resources to local governments for water-use infrastructure delivery;
- Ensure the necessary African ownership, public control and legal frameworks to protect the public interests, particularly those of the poor and the vulnerable;

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CHAPTER 7

THE INTER-AMERICAN HUMAN RIGHTS FRAMEWORK AND THE HRWS

**By Dr. María Querol, International Law Consultant
Former Professor of International Law at Austral University (Buenos Aires)**

At present, there is no treaty specifically foreseeing the human rights to water and sanitation for all, for the American continent as a whole. Until now, the only multilateral agreement recognizing this right at a regional level is the 2006 Central American Water Covenant, signed between Belize, Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica and Panama. Article 1 of this treaty expressly declares that water in all its forms belongs to the public domain and its access is an inalienable and fundamental human right.

Whilst the rest of the multilateral treaties on the subject of water resources in force in the Americas adopt a systemic approach to the rational utilisation of the resource, they do not expressly foresee the rights to water and sanitation. Neither do the existing human rights treaties; most only implicitly relate to the human rights to water and sanitation, as demonstrated by the pertinent case law. Rather, the American thinking in this regard is quite recent. Among the treaties adopted in the recent years in the Inter-American system, only one of them, the Inter-American Convention on Protecting the Human Rights of Older Persons, contains explicit clauses on access to drinking water and sanitation services. Two others on non-discrimination and racism, one of which is not in force yet, include implicit mentions, namely in prohibiting racism and discrimination in the area of “public services”.

Nevertheless, there exists a political commitment at regional level to advance access to drinking water and sanitation. The Organization of American States’ General Assembly Resolution 2349 (XXXVII-O/07) declares that access to safe drinking water and basic sanitation is indispensable for a life with human dignity. It urges Member States to “develop government policies that envisage the participation of civil society in water resource management and in planning options for improving their drinking-water and sanitation services, with respect for the rule of law, bearing in mind, among other considerations, the needs of urban, rural, and indigenous communities, facilitating to that end access to specialized know-how and information on integrated water resource management in a democratic, transparent, and equitable manner”. In addition, Resolution 2347 (XXXVII-O/07) adopted within the framework of the Inter-American Meeting On Economic, Social, And Environmental Aspects Related To The Availability Of And Access To Drinking Water, resolves to expedite efforts, in the context of realities and national laws, to achieve the objective of halving the proportion of people who are unable to reach or to afford safe drinking water, on the basis of non-discrimination, equality, equity, solidarity, and environmental sustainability. Hence, it can be concluded that there is a legal instrument, recognising – at least indirectly – the right to water and sanitation in the American continent, as a necessary condition for a life with human dignity.

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THE AMERICAS

7.1. HUMAN RIGHTS TREATIES



American Convention on Human Rights (Pact of San José) (1969)

Monitoring and complaints mechanisms in inter-American human rights system

The American Convention on Human Rights enshrines several human rights which are closely related to the HRWS, as seen through the work of the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (IACtHR). These two institutions play a crucial role in the inter-American human rights system.

The Inter-American Commission on Human Rights, created in 1959 by the Organization of American States (OAS), is responsible for promoting and protecting human rights in the Americas. Among other functions, the IACHR is mandated to monitor the human rights situation in OAS Member States. The IACHR's functions and powers differ with respect to States Parties to the American Convention on Human Rights and those who are not. It is noteworthy that the Convention on Human Rights does not foresee a reporting mechanism similar to the ones found in the international human rights system. The Commission can however request parties to inform on the implementation of the Convention and through its general mandate it produces reports on the country situation of human rights (see Articles 42 and 43). The country reports can address issues related to access to water and sanitation.⁸⁰ The Commission has also a unit on Economic, Social and Cultural Rights, which is currently entrusted to Commissioner Paulo Vannuchi, and in July 2017, Soledad García Muñoz was selected as the first Special Rapporteur on Economic, Social, Cultural, and Environmental Rights, a new mechanism likely to address water and sanitation issues across the continent.

Another important role of the IACHR is its power to receive, analyse and investigate individual petitions on violations of human rights enshrined in the American Convention on Human Rights. Through these functions, it carries out quasi-judicial duties which are complemented by the Inter-American Court of Human Rights, created through the American Convention on Human Rights. Indeed, a complaint by an individual before the Inter-American System must be lodged with the Commission (see Articles 44 and 61(1)), which is required to help the parties to reach a friendly settlement on the matter. If a solution is not reached, it is the Commission that may forward the case to the IACtHR.

80 See e.g. the Commission's Fourth Report on Human Rights Situation in Colombia, which highlights the difficulties of children and adolescents to access water during armed conflict, as well as drinking water affordability issues. Country reports are available here: <http://www.oas.org/en/iachr/reports/country.asp>; and thematic reports, here: <http://www.oas.org/en/iachr/reports/thematic.asp>.



Right to life - Article 4:

1. Every person has the right to have his life respected. ...

As interpreted by the Inter-American Court of Human Rights

I/A Court H.R., Case of the Yakye Axa Indigenous Community v. Paraguay. Merits, Reparations and Costs. Judgment of 17 June 2005

163. "In the instant case, the Court must establish whether the State generated conditions that worsened the difficulties of access to a decent life for the members of the Yakye Axa Community and whether, in that context, it took appropriate positive measures to fulfil that obligations ... in light of the existing *corpus juris* regarding the special protection required by the members of the indigenous communities, in view of the provisions set forth in Article 4 of the Convention, in combination with the general duty to respect rights, embodied in Article 1(f) and with the duty of progressive development set forth in Article 26 of that same Convention, and with Articles 10 (Rights to Health); 11 (Right to a Healthy Environment); 12 (Right to Food); 13 (Right to Education) and 14 (Right to the Benefits of Culture) of the Additional Protocol to the American Convention, regarding economic, social and cultural rights, and the pertinent provisions ILO Convention No. 169."

 Important case on the relationship between indigenous communities' access to traditional lands and means for their subsistence, including clean water and sanitation. See also Article 21 below.

 For the ILO Convention No. 169, see chapter 5 above.

164. "In the chapter on proven facts (*supra* paras. 50:92 to 50:105) the Court found that the members of the Yakye Axa Community live in extremely destitute conditions as a consequence of lack of land and access to natural resources, caused by the facts that are the subject matter of this proceeding, as well as the precariousness of the temporary settlement where they have had to remain, waiting for a solution to their land claim. This Court notes that ... the members of the Yakye Axa Community could have been able to obtain part of the means necessary for their subsistence if they had been in possession of their traditional lands. ... Furthermore, in this settlement the members of the Yakye Axa Community do not have access to appropriate housing with the basic minimum services, such as clean water and toilets."

167. "Special detriment to the right to health, and closely tied to this, detriment to the right to food and access to clean water, have a major impact on the right to a decent existence and basic conditions to exercise other human rights, such as the right to education or the right to cultural identity. In the case of indigenous peoples, access to their ancestral lands and to the use and enjoyment of the natural resources found on them is closely linked to obtaining food and access to clean water. In this regard, said Committee on Economic, Social and Cultural Rights has highlighted the special vulnerability of many groups of indigenous peoples whose access to ancestral lands has been threatened and, therefore, their possibility of access to means of obtaining food and clean water."

 See also the Inter-American Convention on the Rights of older persons below.

175. "As regards the special consideration required by the elderly, it is important for the State to take measures to ensure their continuing functionality and autonomy, guaranteeing their right to adequate food, access to clean water and health care. Specifically, the State must provide care for the elderly with chronic diseases and in terminal stages, to help them avoid unnecessary suffering. In this case, it is necessary to take into account that in the Yakye Axa Indigenous Community oral transmission of the culture to the younger generations is primarily entrusted to the elderly (*supra* para. 50:111)."

221. "In view of the above, the Court orders that, as long as the Community remains landless, given its special state of vulnerability and the impossibility of resorting to its traditional subsistence mechanisms, the State must supply, immediately and on a regular basis, sufficient drinking water for consumption and personal hygiene of the members of the Community; ... it must provide latrines or any other type of appropriate toilets for effective and healthy management of the biological waste of the Community;"

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I/A Court H.R., Case of the Sawhoyamaxa Indigenous Community v. Paraguay, Judgment of 29 March 2006

164. “[T]he Court determined that the State did not guarantee to the members of the Sawhoyamaxa Community the right to communal property and did not provide either guarantees or judicial protection within a reasonable time (*supra* paras. 112 and 114.) In other words, although the State did not take them to the side of the road, it is also true it did not adopt the adequate measures, through a quick and efficient administrative proceeding, to take them away and relocate them within their ancestral lands, where they could have used and enjoyed their natural resources, which resources are directly related to their survival capacity and the preservation of their ways of life”

168. “In the instant case, together with the lack of lands, the life of the members of the Sawhoyamaxa Community is characterized by unemployment, illiteracy, morbidity rates caused by evitable illnesses, malnutrition, precarious conditions in their dwelling places and environment, limitations to access and use health services and drinking water, as well as marginalization due to economic, geographic and cultural causes (*supra* paras. 73(61) to (74).)”

230. “[I]n view of the conclusions contained in the chapter related to Article 4 of the American Convention (*supra* para. 156 to 180), the Court orders that, while the members of the Community remain landless, the State shall immediately, regularly and permanently adopt measures to: a) supply sufficient drinking water for consumption and personal hygiene to the members of the Community; ... d) set up latrines or other type of sanitation facilities in the settlements of the Community...”

I/A Court H.R., Case of Xákmok Kásek Indigenous Community v. Paraguay. Merits, ReParations, and Costs. Judgment of 24 August 2010

[VII Right to Life (Article 4(f) of the American Convention) 1.1 Access to and quality of water]

195. “The court observes that the water supplied by the State from May to August 2009 amounted to no more than 2.17 liters per person per day. In this regard, according to international standards, most people need a minimum of 7.5 liters⁸¹ per day per person to meet all their basic needs, including food and hygiene. Also according to international standards, the quality of the water must represent a tolerable level of risk. Judged by these standards, the State has not proved that it is supplying sufficient amounts of water to meet the minimum requirements. ...”

196. “Consequently, the Court considers that the measures taken by the State following the issue of Decree No. 1830 have not been sufficient to provide members of the Community with water in sufficient quantity and of adequate quality, and this has exposed them to risks and disease.”

301. “Based on the conclusions presented in Chapter VII with regard to Article 4 ... the Court order that, until the traditional territory or, if applicable, alternate land is delivered to the members of the Community, the State must take the following measures immediately, periodically, or permanently: (a) provision of sufficient potable water for the consumption and personal hygiene of the members of the Community; ... (e) installation of latrines or any other adequate type of sanitation system in the Community’s settlement ...”



Right to humane treatment - Article 5:

1. Every person has the right to have his physical, mental, and moral integrity respected. 2. No one shall be subjected to ... cruel, inhuman or degrading punishment or treatment. ...

81 The actual needs can vary but they are estimated at a level much higher than those discussed by the Court. In CESCR General Comment No. 15, the CESCR refers to the WHO guidelines: J. Bartram and G. Howard, “Domestic water quantity, service level and health”, WHO, 2002.

I/A Court H.R., Case of Vélez Looor v. Panama. Preliminary Objections, Merits, Reparations, and Costs. Judgment of 23 November 2010

215. “The Court considers it proven that in June 2003, while Mr. Vélez Looor was held at La Joyita Prison, there was a problem in the water supply that affected the prison population. The evidence provided demonstrates that the shortages of drinking water at La Joyita had been frequent (*supra* para. 197) and that in 2008 the State took some measures in that regard. The Court

 **The Minimum Rules for the Treatment of Prisoners can be found in chapter 2.**

notes that the lack of drinking water is a particularly important aspect of prison conditions. In relation to the right to drinking water, the United Nations Committee on Economic, Social and Cultural Rights has called on States Parties to adopt measures to ensure that “[p]risoners and detainees are provided with sufficient and safe water for their daily individual requirements, noting the requirements of international humanitarian law and the United Nations Standard Minimum Rules for the Treatment of Prisoners.” Furthermore, the Minimum Rules establish that “[p]risoners shall be required to keep their persons clean, and to this end they shall be provided with water and with toilets as are necessary for health and cleanliness,” and that “[d]rinking water shall be available to every prisoner whenever needed.” Consequently, States must take steps to ensure that prisoners have sufficient safe water for daily personal needs, *inter alia*, the consumption of drinking water whenever they require it, as well as water for personal hygiene.”

216. “The Court considers that the absence of minimum conditions to guarantee the supply of drinking water within a prison constitutes a serious failure by the State in its duty to guarantee the rights of those held in its custody, given that the circumstances of incarceration prevent detainees from satisfying their own personal basic needs by themselves, even though these needs, such as access to sufficient and safe water, are essential for a dignified life.”

276. “... Nevertheless, the Court recalls the special position of the State as guarantor with respect to persons deprived of liberty. This means that the State is especially obliged to guarantee the rights of persons deprived of liberty and, in particular, ensure an adequate supply of water at La Joya-La Joyita Prison and that the conditions of imprisonment there as well as in La Palma Prison conform to international standards.”

I/A Commission on H.R., Report No. 63/99. Case 11.427. Víctor Rosario Congo v. Ecuador. 13 April 1999

73. “[The Right to Life] ... The State’s observations affirm, and the autopsy confirms, that the victim did not die of his injury but of the dehydration he suffered during the approximately forty days he remained in isolation without food or water. It has not been shown, however, that the necessary measures were taken to protect the personal integrity of an inmate who exhibited physical wounds which, though not grave, required attention, and who, owing to his mental state, was in no position to look after himself. (paragraph 73)”

I/A Commission on H.R., Report No 55/02, Case 11.765, Paul Lallion v. Grenada, Merits. 21 October 2002

39. “The Petitioners claim that the State has violated Mr. Lallion’s rights under Article 5(1) and 5(2) of the Convention because he is being detained in inhumane conditions of detention. ... The Petitioners argue that non-governmental organizations have concluded that the State is in breach of a number of international instruments designed to give those detained a minimum level of protection, because of inadequate accommodations, sanitation, diet and health care.”

84. “In support of their allegations, the Petitioners provided the Commission with Mr. Lallion’s Affidavit detailing the conditions under which he has been detained on death row in Richmond Hill Prison, Grenada, upon his conviction for murder, and submit the following: ... I am provided with a bucket which I use as a toilet. I am permitted to slop out the contents of the bucket once a day. Once it has been used, I am forced to endure the smell and unhygienic conditions until I am able to empty it ...”

86. “The Commission considers that the Petitioners’ allegations should be evaluated in light of minimum standards articulated by international authorities for the treatment of prisoners, including those prescribed by the United Nations. ...”

 **Reference to the UN Minimum Rules for the Treatment of Prisoners (see chapter 2).**

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87. "It is evident that based upon the Petitioners' allegations that the State has failed to meet these minimum standards of proper treatment for Mr. Lallion. The cumulative impact of such conditions, together with the length of time for which Mr. Lallion has been incarcerated in connection with his criminal proceedings, cannot be considered consistent with the right to humane treatment under Article 5 of the Convention. Based upon the information provided by the Petitioners the conditions of detention to which he has been subjected fail to meet several of these minimum standards of treatment of prisoners, in such areas as hygiene, exercise and medical care."



Right to privacy - Article 11:

1. Everyone has the right to have his *honor* respected and his dignity recognized. ...

As addressed by the IACtHR

I/A Court H.R., *Masacre de Plan de Sánchez vs. Guatemala*. Monitoring Compliance with Judgment. Order of 25 May 2017⁸²

ii. Develop a sewage system and drinking water supply

"28. ... the implementation of an efficient sewage system constitutes an important indicator of sanitation according to the guidelines established by the World Health Organization; because the improper management of both wastewater and rain water can create high risks for public health and safety. ...

30. The Committee on Economic, Social and Cultural Rights has indicated that "The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights." Therefore, every person has the right to dispose of sufficient water, clean, acceptable, accessible and affordable for personal and domestic use. ..."

"The Interamerican Court of Human Rights, ... Decides: ...

3. To continue the process of overseeing the implementation of the following reparation measures: ...
d) Develop in the 13 communities identified in paragraph 110⁸³ of the decision, programs referring to: ... ii) the adoption of a sewage system and drinking water supply..."

I/A Court H.R., *Case of Masacres de Río Negro v. Guatemala*. Monitoring Compliance with Judgment. Order of 25 May 2017⁸⁴

iv. Sewage system, wastewater treatment and drinking water supply

27. "... it is required that the State adopts short-term measures, even if temporarily, to overcome difficulties faced by the referred communities involving access to water, especially since water is essential to living a life with dignity and fulfilling other human rights. Taking this into account, to accomplish the present measure, it is important that the State addresses access to drinking water, specifically, availability, quality and accessibility; in current efforts being adopted."

"The Interamerican Court of Human Rights, ... Decides: ...

3) To continue the process of overseeing the implementation of the following reparation measures:

e) "Implement in [*Colonia Pacux*] ... independently of other public works that are foreseen in the national budget for the colony of *Pacux* or the region, the following measures" (see sixth resolution item of the judgement);

iv) implementation of a sewage system, wastewater or sewage water treatment and drinking water supply (item d, paragraph 284 of the judgement)."



Rights of the child - Article 19:

Every minor child has the right to the measures of protection required by his condition as a minor on the part of this family, society, and the state.

82 Unofficial English translation, original available only in Spanish. The judgment on merits can be found in the following links: Case *Masacre Plan de Sánchez vs. Guatemala* (merits): http://www.corteidh.or.cr/docs/casos/articulos/seriec_105_esp.pdf (judgement: 29/04/2004)
Case *Masacre Plan de Sánchez vs. Guatemala* (Reparations): http://www.corteidh.or.cr/docs/casos/articulos/seriec_116_esp.pdf (judgement: 19/11/2004)

83 See the reparations judgement.

84 Unofficial English translation, original available only in Spanish. The judgment on merits can be found in the following link: Case *Masacres de Río Negro vs. Guatemala*: http://www.corteidh.or.cr/docs/casos/articulos/seriec_250_esp.pdf

As interpreted by the Inter-American Court of Human Rights

I/A Court H.R., Case of *Xákmok Kásek Indigenous Community v. Paraguay*. Merits, ReParations, and Costs. Judgment of 24 August 2010

[X. Rights of the Child (Article 19 of the American Convention)
257. "The Court recalls that children possess the same rights as all human beings ..."

259. "In this case, the Court reiterates its previous considerations regarding the access to water ... of the members of the Community (*supra* paras. 194 to 213) ..."



See extracts from the same case under Article 4.

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THE AMERICAS

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Right to property - Article 21:

1. Everyone has the right to use and enjoyment of his property. ...

As interpreted by the Inter-American Court of Human Rights

I/A Court H.R., Case of the *Yakye Axa Indigenous Community v. Paraguay*. Merits, ReParations and Costs. Judgment of 17 June 2005

168. "In the previous chapter, this Court established that the State did not guarantee the right of the members of the Yakye Axa Community to communal property. The Court deems that this fact has had a negative effect on the right of the members of the Community to a decent life, because it has deprived them of the possibility to access their traditional means of subsistence, as well as to use and enjoyment of the natural resources necessary to obtain clean water ... "



Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) (1988)

The Protocol of San Salvador complements the American Convention on Human Rights with obligations with respect to economic, social and cultural rights, including many that are related to the HRWS. To help monitor progress with the rights entailed in the Protocol, progress indicators have been developed by the Working Group to Examine the Periodic Reports of the States Parties. "Progress Indicators for Measuring Rights under the Protocol of San Salvador" is a useful tool to help States Parties on their reporting obligations under the Protocol. As this document demonstrates important links between the HRWS and certain Protocol rights that must be reported on by States Parties, few extracts have been also identified here.

In terms of monitoring of the implementation of the Additional Protocol, States Parties undertake to submit periodic reports on the progressive measures they have taken to ensure due respect for the rights set forth in this instrument (Article 19). These are examined by the Working Group of the Protocol of San Salvador.

Extracts from the *Case of the Yakye Axa Indigenous Community v. Paraguay*, identified above under the American Convention on Human Rights, refer to certain Articles from the Protocol. The Protocol foresees the possibility to file individual petitions under the applicable articles of the American Convention for alleged violations of trade union rights (8(a)) and the right to education (13) (see Article 19). In practice, however, other rights contained in the Protocol could be justiciable, but there has been a debate around this issue.⁸⁵

85 See e.g. Joint concurring opinion of Judges Roberto F. Caldas and Eduardo Ferrer Mac-Gregor Poisot, I/A Court H.R., Case *Canales Huapaya and others v. Peru*. Preliminary Objections, Merits, Reparations and Costs. Judgment of 24 June 2015.

Right to health - Article 10

1. Everyone shall have the right to health, understood to mean the enjoyment of the highest level of physical, mental and social well-being...

OAS Progress Indicators for Measuring Rights under the Protocol of San Salvador (2015)

67. "As well as being culturally acceptable, health facilities, goods and services must also be scientifically and medically appropriate and of good quality. This requires, inter alia, skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, safe and potable water, and adequate sanitation ..."

Right to a healthy environment - Article 11

1. Everyone shall have the right to live in a healthy environment and to have access to basic public services.

2. The States Parties shall promote the protection, preservation, and improvement of the environment.

OAS Progress Indicators for Measuring Rights under the Protocol of San Salvador (2015)

30. "Availability: The States must ensure availability or existence of sufficient resources so that all persons, according to their specific characteristics, can benefit from a healthy environment and have access to basic public services. Environmental conditions depend on the state of various factors such as: a) air, b) water, c) soil, d) forest resources, e) biodiversity, f) energy resources, g) atmospheric conditions, and h) waste production, among others. As for public basic services, they are comprised of the essential services provided by the State (whether delivered directly by the State itself or by third parties) to ensure that persons live in acceptable conditions. Although there is no exhaustive list of these services, the Inter-American Commission has recognized on various occasions that services such as piped water supply, sewage, cleaning, electricity and gas may be viewed as basic services."

33. "Quality: It is precisely this requirement for States that most directly enforces the right to a healthy environment, because the qualifier "healthy" requires that the constituent elements of the environment (such as water, air, or soil, among others) have technical conditions of quality that make them acceptable, in line with international standards. This means that the quality of the elements of the environment must not become an obstacle to persons to live their lives in their vital spaces."

Right to Education - Article 13

1. Everyone has the right to education. ...

Rights of children - Article 16

Every child, whatever his parentage, has the right to the protection that his status as a minor requires from his family, society and the State. ...

Protection of the elderly - Article 17

Everyone has the right to special protection in old age. With this in view the States Parties agree to take progressively the necessary steps to make this right a reality, and particularly, to: a. Provide suitable facilities, as well as food and specialized medical care, for elderly individuals who lack them and are unable to provide them for themselves ...



See the thematic Convention below on the rights of the elderly



Protection of the handicapped - Article 18

Everyone affected by a diminution of his physical or mental capacities is entitled to receive special attention designed to help him achieve the greatest possible development of his personality. The States Parties agree to adopt such measures as may be necessary for this purpose and, especially, to:

- a. Undertake programs specifically aimed at providing the handicapped with the resources and environment needed for attaining this goal; ...*
- c. include the consideration of solutions to specific requirements arising from needs of this group as a priority component of their urban development plans; ...*



Inter-American Convention on Protecting the Human Rights of Older Persons (2015)

Mechanisms with the Committee of Experts and the Inter-American Commission on Human Rights

The Inter-American Convention on Protecting the Human Rights of Older Persons entered into force only recently, in January 2017. It is the only Convention from the inter-American human rights system that explicitly address access to drinking water and sanitation services as seen in the extracts below.

The Committee of Experts is mandated to assist in monitoring progress by States Parties in implementing this Convention, and conduct a technical review of the periodic reports submitted by States Parties. Within one year of the first meeting, and thereafter every four years, States Parties are to present a report to the Committee on the implementation of their obligations (Article 35).

With respect to complaints on alleged violations of human rights contained in the Convention, these can be lodged with the Inter-American Commission on Human Rights, as per Article 36.



Rights of older persons receiving long-term care - Article 12

Older persons have the right to a comprehensive system of care that protects and promotes their health, provides social services coverage, food and nutrition security, water, clothing, and housing, and promotes the ability of older persons to stay in their own home and maintain their independence and autonomy, should they so decide. ...

States Parties shall adopt measures toward developing a comprehensive care system that takes particular account of a gender perspective and respect for the dignity, physical and mental integrity of older persons.



Right to a healthy environment - Article 25

Older persons have the right to live in a healthy environment with access to basic public services. To that end, States Parties shall adopt appropriate measures to safeguard and promote the exercise of this right, inter alia: ... b. To ensure access for older persons, on an equal basis with others, to basic public drinking water and sanitation services, among others.

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Inter-American Convention against All Forms of Discrimination and Intolerance (2013) *Not in force*

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Under Article 15, the Convention foresees an individual complaints mechanism with the IACHR, and the establishment of the Inter-American Committee for the Prevention and Elimination of Racism, Racial Discrimination, and All Forms of Discrimination and Intolerance, which is to monitor the implementation of the commitments under the Convention through States Parties reporting. Disaggregated data and statistics on groups in situations of vulnerability must be contained in the reports submitted.

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However, because the Convention is not yet in force, the reporting mechanism does not yet apply and individual complaints may not be lodged under this Convention. The Convention will enter into force after the second ratification.

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Duties of the State - Article 4:

The states undertake to prevent, eliminate, prohibit, and punish, in accordance with their constitutional norms and the provisions of this Convention, all acts and manifestations of discrimination and intolerance, including: ... xiv. The restriction or limitation, based on any criteria set forth in Article 1.1 of this Convention,⁸⁶ of the right to every person to access and sustainably use water, natural resources, ecosystems, biodiversity, and ecological services that are part of each state's natural heritage, protected by the relevant international instruments and their own national laws;

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Legislative measures - Article 7:

The States Parties undertake to adopt legislation that clearly defines and prohibits discrimination and intolerance, applicable to all public authorities as well as to all individuals or natural and legal persons, both in the public and in the private sectors, particularly in the areas of ... education; housing; health; ... access to public services and other areas; and to repeal or amend any legislation that constitutes or produces discrimination and intolerance.

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Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance (2013)

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Uruguay deposited its instrument of ratification of this Convention in October 2017, joining Costa Rica as the two only ratifying States at the time of publishing. Like the Convention on All Forms of Discrimination and Intolerance, this Convention foresees periodic States reporting, containing disaggregated data and statistics on groups in situations of vulnerability, as well as the possibility for individuals to submit petitions to the IACHR on complaints of violations of this Convention (Article 15). With the entry into force of this Convention in November 2017, the Inter-American Committee for the Prevention and Elimination of Racism, Racial Discrimination, and All Forms of Discrimination and Intolerance, shall be established. Its first meeting will be however held after the deposit of the tenth instrument of ratification of any of the two Conventions.

86 Article 1 reads: For the purpose of this Convention: 1. Discrimination shall mean any distinction, exclusion, restriction, or preference, in any area of public or private life, the purpose or effect of which is to nullify or curtail the equal recognition, enjoyment, or exercise of one or more human rights and fundamental freedoms enshrined in the international instruments applicable to the States Parties. Discrimination may be based on nationality, age, sex, sexual orientation; gender identity and expression; language; religion; cultural identity, political opinions or opinions of any kind; social origin; socioeconomic status; educational level; migrant, refugee, repatriate, stateless or internally displaced status; disability; genetic trait; mental or physical health condition, including infectious-contagious condition and debilitating psychological condition; or any other condition. ...



Duties of the State - Article 4:

The states undertake to prevent, eliminate, prohibit, and punish, in accordance with their constitutional norms and the provisions of this Convention, all acts and manifestations of discrimination and intolerance, including: ... xiv. The restriction or limitation, based on any of the criteria set forth in Article 1.1 of this Convention,⁸⁷ of the right of every person to access and sustainably use water, natural resources, ecosystems, biodiversity, and ecological services that are part of each state's natural heritage, protected by the relevant international instruments and their own national laws;



Legislative measures - Article 7:

The States Parties undertake to adopt legislation that clearly defines and prohibits racism, racial discrimination, and related forms of intolerance, applicable to all public authorities as well as to all individuals or natural and legal persons, both in the public and in the private sectors, particularly in the areas of education; ... housing; health; ... access to public services and other areas; ... and to repeal or amend any legislation that constitutes or produces racism, racial discrimination, and related forms of intolerance.



Inter-American Convention on the Elimination of all forms of discrimination against Persons with Disabilities (1999)

Reporting procedures with the CEDDIS

States Parties are requested under Article V to submit periodic reports on the implementation of this Convention to the Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities (CEDDIS).



Article III:

To achieve the objectives of this Convention the states parties undertake: 1. To adopt the legislative, social, educational, labor-related, or any other measures needed to eliminate discrimination against persons with disabilities and to promote their full integration into society, including, but not limited to: a) Measures to eliminate discrimination gradually and to promote integration by government authorities and/or private entities in providing or making available goods, services, facilities, programs, and activities such as employment, transportation, communications, housing, recreation, education, sports, law enforcement and administration of justice, and political and administrative activities; ...

87 Article 1 reads: For purposes of this Convention: 1. Discrimination shall mean any distinction, exclusion, restriction, or preference, in any area of public or private life, the purpose or effect of which is to nullify or curtail the equal recognition, enjoyment, or exercise of one or more human rights and fundamental freedoms enshrined in the international instruments applicable to the States Parties. Racial discrimination may be based on race, color, lineage, or national or ethnic origin. ...

7.2. OTHER TREATIES



Central American Water Convention (Signed and ratified by Guatemala, Belize, El Salvador, Honduras, Nicaragua, Costa Rica, Panama, 2006)⁸⁸



Principle 1:

Water in all its forms, is a public good and its access is a fundamental and inalienable human right.



Objectives - Article 2:

The present convention pursues the following objectives: a) to value, conserve and use water in an efficient and sustainable manner; b) to advance in the fulfilment of providing access to drinking water and basic sanitation services to the neglected population of Central America and Dominican Republic, and to contribute to the fulfilment of the Millennium Goals and to those set on the National Development Plans; c) to determine the value of use and to foster studies to fix the intrinsic value of water as a good for all living creatures and a fundamental human right for present and future generations.

7.3. OTHER NON-BINDING DOCUMENTS

AMERICAN DECLARATION ON THE RIGHTS AND DUTIES OF MAN (1948)

Article I: *Every human being has the right to life, liberty and the security of his person.*

Article XI: *Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.*

PRINCIPLES AND BEST PRACTICES ON THE PROTECTION OF PERSONS DEPRIVED OF LIBERTY IN THE AMERICAS (2008)



Standards on water and sanitation, including gender-related aspects

Principle XI Food and drinking water

2. Drinking water

Every person deprived of liberty shall have access at all times to sufficient drinking water suitable for consumption. Its suspension or restriction as a disciplinary measure shall be prohibited by law.

Principle XII Accommodation, hygiene and clothing

2. Hygiene

Persons deprived of liberty shall have access to clean and sufficient sanitary installations that ensure their privacy and dignity. They shall also have access to basic personal hygiene products and water for bathing or shower, according to the climatic conditions.

Women and girls deprived of their liberty shall regularly be provided with those articles that are indispensable to the specific sanitary needs of their sex.

88 Unofficial translation.

Article 20: *Member states recognize that water is fundamental for life and central to socioeconomic development and environmental sustainability and that non-discriminatory access by the population to safe drinking water and sanitation services, in the framework of national laws and policies, contributes to the objective of combating poverty. Member states, in keeping with their national realities, undertake to continue working to ensure access to safe drinking water and sanitation services for present and future generations.*

7.4. OAS GENERAL ASSEMBLY RESOLUTIONS

2007 Resolution AG/RES. 2347 (XXXVII O/07). Inter-American Meeting on Economic, Social, and Environmental Aspects related to the Availability of and Access to Drinking Water

The General Assembly ... resolves: ... 2. To expedite efforts, in the context of realities and national laws, to achieve the objective of halving the proportion of people who are unable to reach or to afford safe drinking water, on the basis of non-discrimination, equality, equity, solidarity, and environmental sustainability. ...

2007 Resolution AG/RES. 2349 (XXXVII O/07). Water Health, and Human Rights

The General Assembly ... resolves:

1. To recognize and emphasize that water is essential to the life and health of all human beings and that access to safe drinking water and basic sanitation is indispensable for a life with human dignity. ...

3. To underscore that water is a natural, limited, and vulnerable resource that has economic value and that also performs an environmental, social, economic, and cultural function, and that efforts must be made to ensure that all sectors of the population have access to safe drinking water and sanitation services.

4. To recognize and respect, in accordance with national law, the ancestral use of water by urban, rural, and indigenous communities, in the framework of their habits and customs on water use, emphasizing as well the importance of this resource as an energy source.

5. To urge member states to develop government policies that envisage the participation of civil society in water resource management and in planning options for improving their drinking-water and sanitation services, with respect for the rule of law, bearing in mind, among other considerations, the needs of urban, rural, and indigenous communities, facilitating to that end access to specialized know-how and information on integrated water resource management in a democratic, transparent, and equitable manner.

6. To foster actions to address the effects of climate variability and change on water resources, the supply of safe drinking water, and sanitation, with particular emphasis on preventing risks associated with environmental management, as well as the degradation of water basins and wetlands. ...

2012 Resolution AG/RES. 2760 (XLII-O/12). The Human Rights to Safe Drinking Water and Sanitation

The General Assembly ... Resolves: 1. To invite member states, in keeping with their national realities, to continue working to ensure access to safe drinking water and sanitation services for present and future generations ...

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WATERLEX



CHAPTER 8

AN ANTHOLOGY OF LAW AND MECHANISMS ON THE RIGHTS TO WATER AND SANITATION IN THE ASIA-PACIFIC REGION

By Agnes Chong, University of Hong Kong

Regional-level protections and enforcement mechanisms of the human rights to water and sanitation (HRWS) within the Asia-Pacific region are beginning to emerge in key geographic localities.⁸⁹ The protection of those rights has seen an evolution across the region, mostly influenced by trends and developments at the international level. Several regional bodies have been most active in the establishment of regional mechanisms namely: (1) the Association of Southeast Asian Nations (ASEAN)⁹⁰; (2) the Pacific Islands Forum (PIF)⁹¹; and (3) the South Asian Association for Regional Cooperation (SAARC)⁹².

Article 28 of the 2012 ASEAN Human Rights Declaration is the first codification of the human rights to water and sanitation in the region. This has been a long process of development as human rights were first implicit notions within the declarations and treaties of the 1960s.⁹³ Cooperation in peace and stability within the spheres of economic and social security grew from the provisions of technical assistance and the development of programmes to protections of the rights of the individual as economic agents and safeguards for the future.⁹⁴

PIF and SAARC have yet to codify the human rights to water and sanitation. PIF supports its Member States in fulfilling their human rights obligations in international human rights treaties,⁹⁵ although the forum is evolving its focus to develop programmes to include the management of water and sanitation in the Pacific region.⁹⁶ SAARC, on the contrary, does not explicitly provide for the protection of the HRWS. The association has identified areas of cooperation⁹⁷ through which it supports Member States to improve the welfare and standard of living of their peoples. Like PIF, the SAARC is evolving its focus on health to develop guidelines on safe water and sanitation.⁹⁸

Other regional fora include the Secretariat of the Pacific Regional Environmental Programme (SPREP) and the Asia-Pacific Economic Cooperation (APEC), which do not explicitly address the rights to water and sanitation per se. However, SPREP does protect water resources through its activities focused on conserving the natural environment and ecosystems and preserving the region's natural heritage for the benefit of future generations. APEC has traditionally concentrated its activities on cooperation for economic security and has recently declared greater efforts on efficient water management practices for improved food security and access to water in urban areas.⁹⁹

89 This has namely taken place in Central and Western Asia; North and North East Asia; East Asia; South East and South Asia; and the Pacific.

90 ASEAN Member States consist of Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

91 PIF Member States consist of Australia, the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

92 SAARC Member States consist of Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka.

93 These included the 1967 ASEAN Declaration, which is primarily an agreement to promote peace, security and cooperation in the region.

94 This can be seen by way of the emergence of a regime to protect the right to health of the individual as well as women and children's rights.

95 The Pacific Islands Forum Secretariat conducts national human rights consultations with its Member States, which support treaty ratification and implementation as well as reporting on progress of meeting their human rights obligations. See Pacific Islands Forum Secretariat, Our Work in Human Rights, National Human Rights Consultations. See website of Pacific Islands Forum Secretariat at: <http://www.forumsec.org/pages.cfm/political-governance-security/human-rights/human-rights-update.html?printerfriendly=true> (last accessed on 6 October 2017)

96 An example of this was the 2012 meeting between the Pacific Regional Water and Sanitation Consultation (RWSC) and the 4th Disaster Platform discuss crosscutting issues of disaster and water and sanitation and revise the Pacific Regional Action Plan on Sustainable Water Management to reflect the water and sanitation targets in the post-2015 SDG framework.

97 These are human resource development and tourism; agriculture and rural development; environment, natural disasters and biotechnology; economic, trade and finance; social affairs; information and poverty alleviation; energy, transport, science and technology; and education, security and culture.

98 This was discussed at the Third Meeting of the SAARC Health Ministers (Dhaka, 26 April 2006) and further, the formulation of a framework to address access problems to water and sanitation was discussed at the Fourth Meeting of the SAARC Health Ministers (Male, 10-12 April 2012).

99 For an overview of access to water in Asia, see Ross Michael Pink, *Water Rights in Southeast Asia and India*, Palgrave Macmillan US, 2016.

1967 ASEAN DECLARATION

Implicit mention of access to water and sanitation

...the aims and purposes of this Association shall be:

2. *To promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter;*

3. *To promote active collaboration and mutual assistance on matters of common interest in the economic, social, cultural, technical, scientific and administrative fields; ...*

1976 DECLARATION OF ASEAN CONCORD I

Implicit mention of access to water and sanitation

3. *The elimination of poverty, hunger, disease and illiteracy is a primary concern of member states. They shall therefore intensify cooperation in economic and social development, with particular emphasis on the promotion of social justice and on the improvement of the living standards of their peoples.*

1983 DECLARATION OF THE BASIC DUTIES OF ASEAN PEOPLES AND GOVERNMENTS

Explicit mention of access to water and implicitly to sanitation

Article V: *1. It is the duty of government to adopt policies to eliminate disparities between rural and urban areas and between geographic regions. In particular, such policies should insure, throughout the nation, basic social services, adequate food and nutrition, safe drinking water, clean air, and health care, free and compulsory education to at least the secondary level, and adult education in health, hygiene, voluntary family planning and vocational training, adequate housing, access roads and public transport, and proper technology.*

1986 BANGALORE DECLARATION OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION

Explicit mention of access to water and sanitation

10. *The Heads of State or Government recognised that meeting the needs of all children was the principal means of human resources development. Children should, therefore, be given the highest priority in national development planning. The Heads of State or Government underlined the importance of enhancing public consciousness and building a national political consensus on the rights of the children. In this context they called for an early conclusion and adoption of the UN Convention on the Rights of the Child. They subscribed to the goals of universal immunization by 1990, universal primary education, maternal and child nutrition, provision of safe drinking water and adequate shelter before 2000 A. D. They also believed that it should be possible to ensure at the end of the century, that no child need die or be denied development, for reasons of material poverty in the family.*

Reporting and communication procedures

10. *... [Heads of State or Government] directed the Standing Committee to undertake annual reviews of the situation of children in the SAARC countries, monitoring of programmes and exchange of experience.*



Explicit mention of
safe drinking water

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1986 NOUMEA CONVENTION OR CONVENTION FOR THE PROTECTION OF THE NATURAL RESOURCES AND ENVIRONMENT OF THE SOUTH PACIFIC REGION, NOUMEA

Implicit mention of access to water and sanitation

[The Parties have agreed as follows:]

(f) “pollution” means the introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities; ...

Article 5 General obligations

1. The Parties shall endeavour, either individually or jointly, to take all appropriate measures in conformity with international law and in accordance with this Convention and those Protocols in force to which they are party to prevent, reduce and control pollution of the Convention Area, from any source, and to ensure sound environmental management and development of natural resources, using for this purpose the best practicable means at their disposal, and in accordance with their capabilities. In doing so the Parties shall endeavour to harmonize their policies at the regional level.

2. The Parties shall use their best endeavours to ensure that the implementation of this Convention shall not result in an increase in pollution in the marine environment outside the Convention Area.

Reporting Obligations and Communication Procedures

Parties are required to submit national reports to the Secretariat in accordance with Article 21(1)(b) of the Noumea Convention. Such reports are to be submitted biennially and deposited with the Secretariat at least three months prior to the Ordinary Meeting. The Ordinary Meeting (consisting of the Parties and convened every two years) reviews the national reports of the Parties who report on the implementation of their obligations over the past two years and their monitoring of national developments consistent with the objectives of the Convention.¹⁰⁰

The Secretariat supports the Parties prepare their national reports and notes any dumping and pollution incidences in contravention of the convention and protocols – but notably, it does not have the function to reprimand the Parties if obligations are not fulfilled.¹⁰¹

1987 MANILA DECLARATION OF ASEAN

Implicit mention of access to water and sanitation

20. In the area of environment, ASEAN shall cooperate in promoting the principle of sustainable development and systematically integrating it into all aspects of development and shall focus on the need for policy guidelines to protect ASEAN's common resources and environment.

100 Article 22 of the Noumea Convention. The purpose of this reporting procedure is to update the other Parties about “the measures undertaken in the region to comply with the treaty obligations, and to inform them about the rising issues that require[s] to be assessed.” See website of the Secretariat of the Pacific Regional Environment Programme, National Implementation and Reporting Material at: <http://www.sprep.org/legal/implementation-noumea> (last accessed on 6 October 2017).

101 Instead it is the Parties themselves who are responsible to implement the provisions of the convention and protocols and adopt national measures to prevent and reprimand individuals for dumping and pollution incidences that contravene the provisions of the convention and protocols and reporting such incidences to the other Parties and the South Pacific Commission. See Articles 5, 12(2), 12(3) and 14 of the Noumea Convention.

1989 DRAFT PACIFIC CHARTER OF HUMAN RIGHTS¹⁰² (PACIFIC STATES) - DRAFT COORDINATED BY LAWASIA 1989

Implicit mention of access to water and sanitation

Article 15A Right to Adequate Standard of Living: *Every individual shall have the right to an adequate standard of living both for the person and that person's family including adequate food, clothing, housing, and to the continuous improvement of living standards.*

Article 16 Right to Health: *(1) Every individual shall have the right to enjoy the best attainable state of physical and mental health. (2) Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive counselling and medical attention when they are sick.*

Article 24 Right to a Safe Environment: *All peoples shall have the right to a clean, healthy and safe environment favourable to their development.*

1991 COLOMBO DECLARATION OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION



Explicit mention of access to water and sanitation

Shelter ...

31. *The Heads of State or Government were of the view that Governments should play the critical role of facilitator and supporter of the initiatives of the people and non-governmental agencies in the field of shelter. In this role, they should be involved in the provision of affordable sites with secure tenure, making housing finance available on an affordable and sustainable basis, providing infrastructure development such as water supply and sanitation, energy and waste disposal, increasing the supply of building materials at reasonable prices using indigenous resources, removing constraints to building activities, and creating maximum opportunities for public participation in decision making and management of shelter activities in the overall context of poverty alleviation. Such activities would be facilitated by the exchange of experience, personnel, research and information among the SAARC countries.*



1992 AGREEMENT ON CO-OPERATION IN JOINT MANAGEMENT ON UTILIZATION AND PROTECTION OF WATER RESOURCES OF INTER-STATE SOURCES

Implicit mention of access to water and sanitation

[Representatives of the states of Kazakhstan, Kyrgyzstan, Uzbekistan, Tajikistan and Turkmenistan] ... Guided by the necessity of approved and organized solution of the problems of joint management of water of interstate sources, and in further pursuance of agreed policy of economic development and raising of the peoples' standard of living; ... the parties agreed as follows: ...

Article 3: *Each of the Parties to this Agreement is obliged to prevent actions on its territory which can infringe on the interests of the other Parties and cause damage to them, lead to deviation from agreed values of water discharges and pollution of water sources.*

Article 4: *The Parties are obliged to carry out joint works for solving ecological problems, related with the Aral Sea desiccation, and establish sanitary water discharge volumes for each year on the basis of water availability of interstate sources. During extremely dry years a special separate decision shall be taken on the problems of water supply to the regions of acute water deficiency.*

102 The Pacific States considered as possible parties to the charter are Fiji, Kiribati, Nauru, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Vanuatu and West Samoa.

1993 KUALA LUMPUR DECLARATION ON HUMAN RIGHTS (ASEAN INTER-PARLIAMENTARY ORGANIZATION), ADOPTED AT THE 14TH GENERAL ASSEMBLY OF THE AIPO IN KUALA LUMPUR, MALAYSIA

Implicit mention of access to water and sanitation

Article 17: *Each member state should undertake all necessary [measures] for the realization of the right to development and shall ensure equality of opportunity for all its citizens in their access to basic resources, education, health services, food, housing, employment, public services and the fair distribution of income.*



1993 AGREEMENT BETWEEN REPUBLIC OF KAZAKHSTAN, KYRGYZ REPUBLIC, REPUBLIC OF TAJIKISTAN, TURKMENISTAN, AND REPUBLIC OF UZBEKISTAN ON JOINT ACTIVITIES IN ADDRESSING THE ARAL SEA AND THE ZONE AROUND THE SEA CRISIS, IMPROVING THE ENVIRONMENT, AND ENDURING THE SOCIAL AND ECONOMIC DEVELOPMENT OF THE ARAL SEA REGION

Agreed upon the following:

Article I States-participants recognize as common objectives:

- ensuring rational usage of the limited land and water resources of the Aral Sea basin in order to ensure the necessary social and economic development and well-being of their people; ...
- improving the sanitary and medico-biological living conditions, especially for the sea zone residents, and addressing the urgent problem of a clean drinking water supply for the region;
- working out and implementing the coordinated social and economic development strategy that would meet the requirements of environmental safety for the people in the region; ...



Explicit mention of water and sanitation



1993 AGREEMENT ESTABLISHING THE SOUTH PACIFIC REGIONAL ENVIRONMENT PROGRAMME

Implicit mention of access to water and sanitation

2. *The Action Plan shall include:*

- (a) co-ordinating regional activities addressing the environment;*
- (b) monitoring and assessing the state of the environment in the region including the impacts of human activities on the ecosystems of the region and encouraging development undertaken to be directed towards maintaining or enhancing environmental qualities;*
- (c) promoting and developing programmes, including research programmes, to protect the atmosphere and terrestrial, freshwater, coastal and marine ecosystems and species, while ensuring ecologically sustainable utilisation of resources;*
- (d) reducing, through prevention and management, atmospheric, land based, freshwater and marine pollution; ...*

Reporting Obligations and Communications Procedures

The Secretariat will implement the SPREP Action Plan and report the progress of annual work programmes to the Parties in accordance with Article 7 of the agreement, as well as provide secretarial support including providing research and advice on the action plan. There is no mechanism whereby the Parties report on the fulfilment (or non fulfilment) of their obligations.

1993 FINAL DECLARATION OF THE REGIONAL MEETING FOR ASIA OF THE WORLD CONFERENCE ON HUMAN RIGHTS (OR THE BANGKOK DECLARATION)

Implicit mention of access to water and sanitation

The Ministers and representatives of Asian States, ... adopt this Declaration ... 20. Affirm also the need to develop the right of humankind regarding a clean, safe and healthy environment; ...

1993 BANGKOK NGO DECLARATION ON HUMAN RIGHTS

Implicit mention of access to water and sanitation

5. Sustainable Development

... We re-emphasise the need for balanced development, bearing in mind maximization of people's development; integrated approaches on civil, political, economic, social and cultural rights; equity and social justice; income distribution and fair resource allocation. Particular attention must be paid to the needs of different groups including women, children, rural people, the urban poor, minorities and indigenous peoples, refugees and displaced persons, workers, and others in disadvantaged positions. The natural environment must be protected as part and parcel of human rights ...

... There is an urgent call to democratize the development process at both the national and international levels so as to ensure a harmonious relationship between humanity and the natural environment, and to create processes to enhance the empowerment of women and gender equality. The thrust is to promote human and humane development.

1993 ASEAN JOINT COMMUNIQUE OF THE 26TH ASEAN MINISTERIAL MEETING SINGAPORE

Implicit mention of access to water and sanitation

Human Rights

16. *The Foreign Ministers welcomed the international consensus achieved during the World Conference on Human Rights in Vienna, 14-25 June 1993, and reaffirmed ASEAN's commitment to and respect for human rights and fundamental freedoms as set out in the Vienna Declaration of 25 June 1993. They stressed that human rights are interrelated and indivisible comprising civil, political, economic, social and cultural rights. These rights are of equal importance. They should be addressed in a balanced and integrated manner and protected and promoted with due regard for specific cultural, social, economic and political circumstances. They emphasized that the promotion and protection of human rights should not be politicized.*

17. *The Foreign Ministers agreed that ASEAN should coordinate a common approach on human rights and actively participate and contribute to the application, promotion and protection of human rights. They noted that the UN Charter had placed the question of universal observance and promotion of human rights within the context of international cooperation. They stressed that development is an inalienable right and that the use of human rights as a conditionality for economic cooperation and development assistance is detrimental to international cooperation and could undermine an international consensus on human rights. They emphasized that the protection and promotion of human rights in the international community should take cognizance of the principles of respect for national sovereignty, territorial integrity and non-interference in the internal affairs of states. They were convinced that freedom, progress and national stability are promoted by a balance between the rights of the individual and those of the community, through which many individual rights are realized, as provided for in the Universal Declaration of Human Rights.*

18. *The Foreign Ministers reviewed with satisfaction the considerable and continuing progress of ASEAN in freeing its peoples from fear and want, enabling them to live in dignity. They stressed that the violations of basic human rights must be redressed and should not be tolerated under any pretext. They further stressed the importance of strengthening international cooperation on all aspects of human rights and that all governments should uphold humane standards and respect human dignity. In this regard and in support of the Vienna Declaration and Programme of Action of 25 June 1993, they agreed that ASEAN should also consider the establishment of an appropriate regional mechanism on human rights.*

1994 APEC ENVIRONMENTAL VISION STATEMENT OF APEC MINISTERS RESPONSIBLE FOR THE ENVIRONMENT, VANCOUVER, CANADA

Implicit mention of access to water and sanitation

... We, the Asia Pacific economies are agreed that we must protect our environment and conserve natural resources. In particular, we have to improve the quality of air, water and manage energy resources to ensure sustainable development and provide a more secure future for our people. We agree to develop co-operative [programmes] to this end.

We recognize that problems such as climate change, biodiversity loss, pollution and waste, deteriorating water quality and availability, soil erosion, population pressures, and growing energy consumption challenge all of us to cooperate more effectively in dealing with these issues. APEC should take the lead in addressing these global problems and solutions in line with the global consensus reached at UNCED. ...

APEC economies recognize the inter-relationship among poverty, unsustainable patterns of production and consumption, population growth, natural resource depletion and environmental degradation, and the potential for regional approaches in addressing global environmental problems. We encourage an enhanced dialogue focused on opportunities for regional co-operation in priority areas such as environmental technologies, environmental education and information, policy tools, and sustainable cities as well as earth observation and global changes research. ...



1995 WAIGANI CONVENTION OR THE CONVENTION TO BAN THE IMPORTATION INTO FORUM ISLAND COUNTRIES OF HAZARDOUS AND RADIOACTIVE WASTES AND TO CONTROL THE TRANSBOUNDARY MOVEMENT AND MANAGEMENT OF HAZARDOUS WASTES WITHIN THE SOUTH PACIFIC REGION

Implicit mention of access to water and sanitation

Article 4 General Obligations

1. Hazardous Wastes and Radioactive Wastes Import and Export Ban

(a) Each Pacific Island Developing Party shall take appropriate legal, administrative and other measures within the area under its jurisdiction to ban the import of all hazardous wastes and radioactive wastes from outside the Convention Area. Such import shall be deemed an illegal and criminal act; and

(b) Each Other Party shall take appropriate legal, administrative and other measures within the area under its jurisdiction to ban the export of all hazardous wastes and radioactive wastes to all Forum Island Countries, or to territories located in the Convention Area with the exception of those that have the status of Other Parties in accordance with Annex IV. Such export shall be deemed an illegal and criminal act. ...

3. Ban on Dumping of Hazardous Wastes and Radioactive Wastes at Sea

(a) Each Party which is a Party to the London Convention, the South Pacific Nuclear Free Zone Treaty, 1985, the 1982 United Nations Convention on the Law of the Sea or the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, 1986, reaffirms the commitments under those instruments which require it to prohibit dumping of hazardous wastes and radioactive wastes at sea; and

4. Wastes Located in the Convention Area Each Party shall: ...

(b) Take appropriate legal, administrative and other measures to ensure that within the area under its jurisdiction, all transboundary movements of hazardous wastes generated within the Convention Area are carried out in accordance with the provisions of this Convention;

(c) Ensure the availability of adequate treatment and disposal facilities for the environmentally sound management of hazardous wastes, which shall be located, to the extent practicable,

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1 within areas under its jurisdiction, taking into account social, technological and economic considerations. However, where Parties are for geographic, social or economic reasons unable to dispose safely of hazardous wastes within those areas, cooperation should take place as provided for under Article 10 of this Convention;

2 5. Radioactive Wastes

3 (a) Parties shall give active consideration to the implementation of the IAEA Code of Practice on the International Transboundary Movement of Radioactive Wastes and such other international and national standards which are at least as stringent; ...

4 Reporting Obligations and Communication Procedures

5 Parties are required to submit national reports to the Secretariat.¹⁰³ The Secretariat then produces its own report based on the national reports submitted.¹⁰⁴ The Parties are required to submit reports to the other Parties to the convention on quantities of hazardous waste exported and imported, points of origins and methods of disposal; any disposals not proceeded as planned; and efforts to reduce transboundary movement of hazardous wastes.¹⁰⁵

6 The Secretariat encourages implementation among the Parties by providing model legislation for the management of hazardous wastes and radioactive wastes.¹⁰⁶ In addition, the Secretariat supports the procedural regime for Parties to fulfil their duty of notification by providing forms for notification, waste movement and reporting cases of illegal traffic.¹⁰⁷ There is no mechanism to reprimand Parties for not fulfilling obligations under the convention and protocols.

7 1995 NUKUS DECLARATION

8 Implicit mention of access to water and sanitation

9 I. Adherence to principles of steady development

We declare about our adherence to principles of steady development and we count, that for this purpose it is necessary to undertake the following: ...

Do not allow reduction in a standard of living of people, simultaneously having provided prospects of a worthy life for the future generations in the way:

- Assistance to the initiatives aimed at improvement of health of people, increase of a standard of living and preservation of a cultural heritage;
- To improve system of complex management of natural resources of region in the way;
- Creations of the regional monitoring system behind a condition of an environment, especially water resources;
- Creations of system of information interchange on monitoring an environment; ...

103 Article 14(f)(c) of the Waigani Convention. National reports shall include (i) hazardous waste import activity generated within the jurisdiction under Article 4(2); (ii) waste defined as hazardous under their national legislation and accompanying requirements in regulating transboundary movement of waste under Article 3 of the Waigani Convention; (iii) changes to national definitions of hazardous waste and national focal points responsible for communicating to the Secretariat under Article 7; and (iv) all treaties and arrangements on the transboundary movement of hazardous waste entered into prior to the entry into force of the convention pursuant to Article 11 of the convention.

104 Article 4(4)(f) of the Waigani Convention.

105 Article 14(2) of the Waigani Convention.

106 The Secretariat encourages implementation among the Parties by providing model legislation for the management of hazardous wastes and radioactive wastes. These include model guidelines for developing a control system for transboundary movements of hazardous wastes and model legislation for the implementation of four waste conventions, namely, Basel, Rotterdam, Stockholm and Waigani. See website of the Secretariat of the Pacific Regional Environment Programme, Implementation at: <http://www.sprep.org/legal/implementation> (last accessed on 6 October 2017)

107 Ibid.

1997 ASHGABAT DECLARATION, THE INTER-PARLIAMENTARY WORKSHOP - "IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD IN CENTRAL ASIA AND KAZAKHSTAN"

 Explicit mention of access to water and sanitation and reference to the Convention on the Rights of the Child

We, [the representatives of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan] gathered in Ashgabat to address the priority problems of the survival, development and protection of children in accordance with the Convention on the Rights of the Child, to define effective and realistic strategies to implement the Convention in the countries of Central Asia and Kazakhstan, and to undertake a joint commitment to ensure that in our independent countries, every child receives all that is required for a happy and healthy life and development today and tomorrow. ...

Recognizing the critical role of Parliaments in the noble undertaking to ensure the primacy and practical application of the Convention in Central Asia and Kazakhstan, we have achieved a consensus on the following: ...

We will endeavor to further adapt our national laws to reflect to the maximum extent possible, the provisions of the Convention on the Rights of the Child, and assure effective and cost-efficient approaches to the provision of social sector services for children, in the areas of health, water and sanitation, education, labour, social welfare, and justice. ...

1998 ASIAN HUMAN RIGHTS CHARTER A PEOPLES' CHARTER

Explicit mention of access to water

Article 7.1: Every individual has the right to the basic necessities of life and to protection against abuse and exploitation. We all have the right to literacy and knowledge, to food and clean water, shelter and to medical facilities for a healthy existence. All individuals and human groups are entitled to share the benefits of the progress of technology and of the growth of the world economy.

Implicit mention of access to water and sanitation

Article 3.2: Foremost among rights is the right to life, from which flow other rights and freedoms. The right to life is not confined to mere physical or animal existence but includes the right to every limb or faculty through which life is enjoyed. It signifies the right to live with basic human dignity, the right to livelihood, the right to a habitat or home, the right to education and the right to a clean and healthy environment for without these there can be no real and effective exercise or enjoyment of the right to life. The state must also take all possible measures to prevent infant mortality, eliminate malnutrition and epidemics, and increase life expectancy through a clean and healthy environment and adequate preventative as well as curative medical facilities. It must make primary education free and compulsory.

Reporting Obligations and Communications Procedures

15.3b: Knowledge and consciousness of rights should be raised among the general public, and state and civil society institutions. Awareness of the national and international regime of rights should be promoted. Individuals and groups should be acquainted with legal and administrative procedures whereby they can secure their rights and prevent abuse of authority. NGOs should be encouraged to become familiar with and deploy mechanisms, both national and inter-national, for monitoring and review of rights. Judicial and administrative decisions on the protection of rights should be widely disseminated, nationally and in the Asian region. Governments, NGOs and educational institutions should cooperate in disseminating information about the importance and content of human rights.

15.4c: All states should establish Human Rights Commissions and specialized institutions for the protection of rights, particularly of vulnerable members of society. They can provide easy, friendly and inexpensive access to justice for victims of human rights violations. These bodies can supplement the role of the judiciary. They enjoy special advantages: they can

 On NHRIs, see section 1.4.

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1 help establish standards for the implementation of human rights norms; they can disseminate information about human rights; they can investigate allegations of violation of rights; they can promote conciliation and mediation; and they can seek to enforce human rights through administrative or judicial means. They can act on their own initiative as well on complaints from members of the public.

2 **1998 AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN, THE GOVERNMENT OF THE KYRGYZ REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF UZBEKISTAN ON COOPERATION IN THE AREA OF ENVIRONMENT AND RATIONAL NATURE USE**

3 **Implicit mention of access to water and sanitation**

4 *Attaching great significance to environmental protection and rational use of the natural resources and desiring to obtain practical results in this field by means of effective cooperation;*

5 *Realistically estimating potentialities of ecological dangers in the context of unfavorable natural climatic and hydrometeorological conditions, and acknowledging these problems as the common tasks;*

6 *Recognizing the great importance of protection and improvement of the environmental situation, prudent and zealous use of natural resources for effectuation of economic and social development with due regard to the interests of the living and future generations; ...*

7 *Have agreed as follows:*

8 **Article 2:** *The Parties shall cooperate: ...*

9 *h) in the coordinating of activities for the construction of new projects in the boundary zone and of the projects that can cause the transboundary adverse effect irrespective of their geographical location;*

10 *i) in protection, rational use and prevention against pollution of the transboundary water resources; ...*

11 **1999 ASHGABAT DECLARATION**

12 *The Aral crisis consequences had negative effects on the standard of living of the population in Central Asia. The problems of social protection and provision with pure drinking water became aggravated.*

13 *The States of Central Asia give unceasing consideration for improvement of situation in the region, for attraction the world community to settle these problems. In common with international organizations and funds, under the GEF support, the «Water Resources and Environment Control» Project is implemented. This Project is directed to radical improvement of the water and other resources usage, enhancement of efficiency and culture of the nature use within the region, and normalization of ecological situation as a whole. ...*

14 *We [the representatives of] Kazakhstan, Kyrgyz Republic, Republic of Tajikistan, Turkmenistan and Uzbekistan, ...*

15 *emphasizing the significance of the States - founders' efforts, undertaken for strengthening the cooperation on the problems of water resources and nature protection control, water ecosystems rehabilitation, prevention the border transit waters from pollution, ...*

16 *give more consideration to the problems of mountain territories - zone of the rivers flow formation within Aral Sea basin,*

17 *realize a number of all-round measures and priority projects on social protection of population living in Aral Sea basin, ...*

18 *promote (through educational and other programmes) rising of the population being in the know about urgent problems of nature protection, rational nature use and improvement the social dwelling environment for present and future generations. ...*



Explicit mention of access to water

1999 PUNE DECLARATION ON “EDUCATION FOR HUMAN RIGHTS IN ASIA & THE PACIFIC ADOPTED BY THE ASIA & PACIFIC REGIONAL CONFERENCE ON EDUCATION FOR HUMAN RIGHTS

Implicit mention of access to water and sanitation

Contents of Education for Human Rights:

Education for human rights, should be aimed at full enjoyment of human rights and fundamental freedoms and for that purpose have regards to the following:

- *All human rights are universal, indivisible, interrelated and interdependent, and all are essential for the full development of human personality;*
- *While regional and national particularities are to be borne in mind, it is the duty of States, regardless of their political, civil, economic and cultural systems, to promote and protect all human rights and fundamental freedoms;*
- *Universal respect for, and observance of, human rights and fundamental freedoms contribute to stability, security and well-being, necessary for socioeconomic development; ...*

2002 DUSHANBE DECLARATION

 **Explicit mention of access to water**

[Kazakhstan, Kyrgyz Republic, Republic of Tajikistan, Turkmenistan and Republic of Uzbekistan] Expressing the concern for aggravation of the ecological crisis in the Aral Sea Basin;

aiming to fulfill the decisions made by implementing the Action Plan on the Aral Sea problems and development the concept of sustainable development for the countries around the Aral Sea Basin;

affirming earlier approved decisions on effective use and protection of water resources of the Aral Sea Basin by taking into account the interests of all countries of the region and by observing the principles of good-neighborhood and mutual respect; ...

Declare to:

define the main directions for solving the problems related with the Aral Sea crisis, enhancement of socio-ecological conditions in the region and improve the life conditions of the population of the Aral Sea Basin;

consider the provision of drinking water supply for the Aral Sea Basin as priority measures in improving socio-ecological conditions; ...

2002 COMMUNIQUE ON THE PACIFIC REGIONAL CONSULTATION ON WATER IN SMALL ISLAND COUNTRIES

Implicit mention of access to water and sanitation

... We, [from 18 small island developing states from the Pacific, East Timor and the Maldives agree to an action plan for sustainable water management in our islands].

Theme 1: Water Resources Management

Key Message 1: Strengthen the capacity of small island countries to conduct water resources assessment and monitoring as a key component of sustainable water resources management.

Key Message 2: Implement strategies to utilize appropriate methods and technologies for water supply and sanitation systems and approaches for rural and peri-urban communities in small islands.

Key Message 3: Implement strategies to improve the management of water resources, and surface and groundwater catchments (watersheds) for the benefit of all sectors including local communities, development interests, and the environment.

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2003 WATER IN SMALL ISLAND COUNTRIES SESSION STATEMENT, 3RD WORLD WATER FORUM, 2003 KYOTO, JAPAN

 Explicit mention of access to safe and affordable drinking water and basic sanitation

B. KEY ISSUES

We, [the representatives from the Pacific, Caribbean, Asian, Indian and Mediterranean regions] recognise that:

- 1) Small island countries have uniquely fragile water resources due to their small size, competing land use, vulnerability to natural and anthropogenic hazards, including drought, cyclones and urban pollution;
- 2) Water services face constraints to sustaining water and wastewater management, due to the lack of resources and investment opportunities, and effectiveness of cost-recovery mechanisms; and
- 3) Water governance is highly complex due to the specific socio-political and cultural factors relating to traditional community, tribal and inter-island practices, rights and interests.

C. ACTIONS

We recommit ourselves to Agenda 21, the Barbados Programme of Action, and the World Summit for Sustainable Development (WSSD) Plan of Implementation. Further, we reaffirm our commitment to the [MDGs], and the WSSD target to halve the proportion of people without access to safe and affordable drinking water and basic sanitation by 2015. ...

D. RECOMMENDATIONS

We support the Pacific Regional Action Plan on Sustainable Water Management and recommend it to other small island regions as a framework for sustainable water management. ...

2004 SOCIAL CHARTER OF SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION

Implicit mention of access to water and sanitation

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... Observing that regional cooperation in the social sector has received the focused attention of the Member States and that specific areas such as health, nutrition, food security, safe drinking water and sanitation, population activities, and child development and rights along with gender equality, participation of women in development, welfare of the elderly people. Youth mobilization and human resources development continue to remain on the agenda of regional cooperation. ...

The Member States of the [SAARC] hereby agree to adopt this Charter:

Article III Poverty Alleviation ...

5. States Parties agree that access to basic education, adequate housing, safe drinking water and sanitation, and primary health care should be guaranteed in legislation, executive and administrative provisions, in addition to ensuring of adequate standard of living, including adequate shelter, food and clothing.

Article IV Health

1. States Parties re-affirm that they will strive to protect and promote the health of the population in the region. Recognizing that it is not possible to achieve good health in any country without addressing the problems of primary health issues and communicable diseases in the region, the States Parties agree to share information regarding the outbreak of any communicable disease among their populations. ...

4. Realizing that health issues are related to livelihood and trade issues which are influenced by international agreements and conventions, the States Parties agree to hold prior consultation on such issues and to make an effort to arrive at a coordinated stand on issues that relate to the health of their population.

Reporting Obligations and Communication Procedures

Reporting obligations are based on programmes, projects, and areas of regional cooperation between the SAARC Member States. There is no mechanism for SAARC Members to report on their obligations in the Charter.¹⁰⁸

2006 THE FRAMEWORK CONVENTION FOR THE PROTECTION OF THE ENVIRONMENT FOR SUSTAINABLE DEVELOPMENT IN CENTRAL ASIA

 Adequate supply of quality drinking water

Article 9

1. *The Contracting Parties, using, as far as appropriate, regional projects and other bilateral and multilateral schemes and mechanisms for cooperation, take all necessary measures to protect and prevent water pollution and depletion of water resources, as well as measures for their sustainable use.*
2. *Contracting Parties shall cooperate in the development of protocols to this Convention, establishing rules and procedures in the development of the commitments contained in paragraph 1 of this Article.*
3. *Such rules and procedures may, in particular, relate to:*
 - a. *improvement of national structures for monitoring water quality and sources of pollution;*
 - b. *establishing a regional system of monitoring water quality in transboundary watercourses;*
 - c. *identification and prioritization of water pollutants and agree terms to reduce their discharges;*
 - d. *joint actions to ensure an adequate supply of quality drinking water;*
 - e. *measures and actions to prevent and reduce pollution to the extent, causes no damage to the territory of the Contracting Parties, downstream of the watercourse;*
 - f. *joint cooperation in the field of sustainable use and protection of water resources of transboundary watercourses.*

2006 NADI DECISION ON THE PACIFIC PLAN OF THE PACIFIC ISLANDS FORUM

Explicit mention of access to water and sanitation

In order to advance the Pacific Plan over the next twelve months, Leaders: Sustainable Development

- *Recommended that water, sanitation and hygiene challenges facing the region be directly addressed under the Pacific Plan through the Pacific Regional Action Plan on Sustainable Water Management; ...*



2007 ASEAN CHARTER

Implicit mention of access to water and sanitation

Article 1: *The Purposes of ASEAN are: ... 7. To strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN; ...*

108 The SAARC has an institutional structure consisting of the Council of Ministers that decide the policy areas of the association; the Standing Committee that monitor programmes of cooperation; and the Technical Committee responsible for implementing programmes. The Technical Committee submits periodic reports to the Standing Committee and the Standing Committee in turn submits periodic reports to the Council of Ministers. There is also an Action Committee responsible for implementing programmes that involve two or more Member States and a secretariat pursuant to Articles VII and VIII of the Charter respectively.

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Article 2.2: ASEAN and its Member States shall act in accordance with the following Principles: ...

- i. respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice;
- j. upholding the United Nations Charter and international law, including international humanitarian law, subscribed to by ASEAN Member States; ...

Article 5.2: Member States shall take all necessary measures, including the enactment of appropriate domestic legislation, to effectively implement the provisions of this Charter and to comply with all obligations of membership. ...

2007 ASIA PACIFIC WATER SUMMIT BEPPU DECLARATION, 1ST ASIA PACIFIC WATER SUMMIT (APWS), BEPPU, JAPAN 2007



Recognition of the “right to safe drinking water and basic sanitation as a basic human right”

We, the leaders of the Asia-Pacific ..., do hereby agree to:

- Recognise the people’s right to safe drinking water and basic sanitation as a basic human right and a fundamental aspect of human security;
- Reduce by half the number of people who do not have access to safe drinking water by 2015 and aim to reduce that number to zero by 2025;
- Reduce by half number of people who do not have access to basic sanitation in our region by 2015 and aim to reduce that number to zero by 2025, through the adoption of new and innovative sanitation systems that are not as water reliant as current methods;
- Accord the highest priority to water and sanitation in our economic and development plans and agendas and to increase substantially our allocation of resources to the water and sanitation sectors, ...
- Establish concrete goals for the 2008 Toyako G8 Summit to: (i) commit to support the developing countries to achieve their MDG targets on water and sanitation; and (ii) take immediate action to support adaptation to climate change by developing countries;
- Empower a high-level coordinating mechanism in our cabinets and where possible, appoint a minister in charge of water to ensure that all issues related to water and sanitation would be dealt with in a holistic manner; ...

2009 JOINT STATEMENT OF THE HEADS OF STATES FOUNDERS OF THE INTERNATIONAL FUND FOR SAVING THE ARAL SEA

Implicit mention of access to water

Heads of the State-Founders of the IFAS, ...

striving towards mutual assistance and support for achieving Millennium Development Goals and improving socioeconomic and environmental conditions within the Aral Sea Basin, ...

taking into account climate change, intensive degradation of glaciers and snowfields of the region and water consumption related to the population growth and the development of economies of the countries of the region,

emphasizing importance of the efforts by the countries of the region on integrated use and conservation of water resources, combating desertification and land degradation for solving problems of the Aral Sea Basin,

make the following statement: ...

4. Parties will continue collaboration targeted toward the improvement of the environmental and socioeconomic situation in the Aral Sea Basin. ...

2009 JOINT DECLARATION ON THE ATTAINMENT OF THE MILLENNIUM DEVELOPMENT GOALS IN ASEAN

Implicit mention of access to water and sanitation

GUIDED by the ASEAN Charter which aims to ensure sustainable development for the benefit of present and future generations and to place the well-being, livelihood and welfare of the peoples at the centre of the ASEAN Community building process;

REAFFIRMING that a stable, secure and prosperous ASEAN Community can be realized when our peoples are free from hunger and provided with primary education as well as adequate health care;

ACKNOWLEDGING the different levels of social and economic development among ASEAN Member States and the need to narrow the development gap within ASEAN;

NOTING that overall ASEAN Member States have made good progress towards the attainment of the Millennium Development Goals (MDGs) particularly in primary education, gender equality as well as combating some infectious diseases and in some ASEAN Member States additional goals and targets have been added specific to their own particular circumstances;

CONCERNED that there are still significant challenges that need to be overcome for some ASEAN Member States to fully achieve the MDGs and thereby narrow the development gap in ASEAN;

NOTING the efforts undertaken at the regional level to address the challenges faced by ASEAN Member States in achieving the MDGs and narrowing the development gap particularly through the implementation of the Framework Plan of Action on Rural Development and Poverty Eradication, the projects/programmes on poverty and quality of life in the Initiative for ASEAN Integration (IAI) Work Plan, the Joint Statement of the Third ASEAN Education Ministers' Meeting, the Work Plan for primary education, gender equality as well as combating some infectious diseases for Women's Advancement and Gender Equality (2005-2010) and the Work Plan to operationalise the Declaration on the Elimination of Violence against Women (2006- 2010), the ASEAN Work programme on HIV/AIDS and the measures on health development and sustainable development in the Vientiane Action Programme as well as the ASEAN Declaration on Environmental Sustainability; and

RECOGNISING the contribution of sub-regional cooperation frameworks, namely Ayeyawady-Chao Phraya-Mekong Economic Cooperation Strategy (ACMECS), Brunei-Indonesia-Malaysia-Philippines East ASEAN Growth Area (BIMP-EAGA), Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT) and Greater Mekong Sub-region (GMS), and CLMV Sub-regional Cooperation in narrowing the development gap among ASEAN Member States and building an ASEAN Community.

DO HEREBY ADOPT AND PROCLAIM THAT WE WILL: ...

- 2. Ensure a continuous effort towards a balance between economic growth and social development and environmental sustainability in order to reduce and not to create negative impacts to the attainment of the MDGs;*
- 3. Further enhance coordination and cooperation within the IAI and sub-regional cooperation frameworks in order to narrow the development gap in ASEAN in particular through the establishment of a consultative mechanism between ASEAN and the sub-regional frameworks; ...*

2010 HA NOI DECLARATION ON THE ENHANCEMENT OF WELFARE AND DEVELOPMENT OF ASEAN WOMEN AND CHILDREN (ADOPTED AT THE 17TH ASEAN SUMMIT IN HA NOI, VIETNAM)



Explicit mention of access to safe drinking water and adequate sanitation facilities

AGREE to foster concerted efforts for the enhancement of the welfare and development of women and children in ASEAN through the following actions and measures: ...

- 9. To improve the proportion of children and women with access to housing, improved sources of safe drinking water and adequate sanitation facilities and hygiene, education and other basic necessities; ...*

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2010 SAARC CONVENTION ON THE COOPERATION ON THE ENVIRONMENT

Implicit mention of access to water

Article II Scope

Cooperation will extend to exchange of best practices and knowledge, capacity building and transfer of eco-friendly technology in the following areas but not limited to:

- k) River eco-system including River Cleaning;
- l) Seawater and Fresh Water Quality Management; ...
- n) Waste Management.

2011 ADDU DECLARATION, SEVENTEENTH SAARC SUMMIT, MALDIVES

 Explicit mention of access to sanitation and drinking water

[Representatives of the states of Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka] DO HEREBY DECLARE: 14. To formulate an actionable framework to address the common challenge of sanitation and access to safe drinking water in the region.

2012 JOINT OUTCOME STATEMENT FROM THE 4TH SESSION OF THE PACIFIC PLATFORM FOR DISASTER RISK MANAGEMENT & PACIFIC REGIONAL WATER AND SANITATION CONSULTATIONS, NEW CALEDONIA

 Explicit mention of the human right to access safe drinking water and sanitation

Regional Water & Sanitation Consultations ...

21. *that significantly increased efforts are required by all to secure the fundamental human right to access to safe drinking water and sanitation for the people of the Pacific.*

22. *that despite good progress on the provision of safe drinking water and sanitation services, in general these efforts have been offset by mounting pressures affecting the region, including population growth, urbanization and economic development, compounded by the impacts of climate variability and natural hazards, and further exacerbated by the emerging impacts of climate change. ...*

24. *that many sanitation systems currently used in the region consume potable water supplies and discharge significant pollutants to groundwater and ultimately to streams and coastal waters leading to significant remediation requirements, and these impacts should be fully considered by decision makers and users when planning and designing water and sanitation services.*

25. *that community ownership and engagement are crucial to the success of water and sanitation improvement efforts, and the design and implementation of water and sanitation solutions should include measures to enable the effective participation of communities at all stages ...*

27. *that reporting on MDG water and sanitation indicators and the post-2015 sustainable development indicators are important to countries in the region and stakeholders, however there is a need for more support to countries on how to better report on these indicators and how this may be achieved through the national and regional indicator frameworks.*

28. *that the development of national water and sanitation indicators that are comparable across countries would provide greater transparency and important support to higher political and inter-sectoral awareness, with presentation summarised at a regional level reflecting national priorities. ...*

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2012 ASEAN HUMAN RIGHTS DECLARATION

Explicit mention of access to water and sanitation

28. *Every person has the right to an adequate standard of living for himself or herself and his or her family including: ...*

- e. The right to safe drinking water and sanitation;*
- f. The right to a safe, clean and sustainable environment.*

Implicit mention of access water and sanitation

8. *The human rights and fundamental freedoms of every person shall be exercised with due regard to the human rights and fundamental freedoms of others. The exercise of human rights and fundamental freedoms shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition for the human rights and fundamental freedoms of others, and to meet the just requirements of national security, public order, public health, public safety, public morality, as well as the general welfare of the peoples in a democratic society. ...*

29. *(f) Every person has the right to the enjoyment of the highest attainable standard of physical, mental and reproductive health, to basic and affordable health-care services, and to have access to medical facilities. ...*

35. *The right to development is an inalienable human right by virtue of which every human person and the peoples of ASEAN are entitled to participate in, contribute to, enjoy and benefit equitably and sustainably from economic, social, cultural and political development. The right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations. While development facilitates and is necessary for the enjoyment of all human rights, the lack of development may not be invoked to justify the violations of internationally recognised human rights.*

36. *ASEAN Member States should adopt meaningful people-oriented and gender responsive development programmes aimed at poverty alleviation, the creation of conditions including the protection and sustainability of the environment for the peoples of ASEAN to enjoy all human rights recognised in this Declaration on an equitable basis, and the progressive narrowing of the development gap within ASEAN. ...*



Explicit recognition of the right to safe drinking water and sanitation

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Reporting Obligations and Communication Procedures

There are no formal compliance or enforcement mechanisms to address human rights violations or violations of these specific rights in Asia.¹⁰⁹ The ASEAN Intergovernmental Commission on Human Rights (AICHR) was established pursuant to Article 14 of the 2007 ASEAN Charter, the function of this human rights body is to protect fundamental human rights and freedoms of the peoples of ASEAN.¹¹⁰

The line of reporting under the ASEAN human rights system is unique as the human rights body reports to the Member States and not the other way round.¹¹¹ Notwithstanding that the AICHR does not have a formal mechanism by which to receive and investigate complaints of human rights breaches or to provide remedies, an informal procedure of complaints submission has emerged.¹¹² In its 2016 Annual Report, the AICHR acknowledged the Working Group for an ASEAN Human Rights Mechanism as a partner.¹¹³ Their work includes building a human rights commission that may “receive complaints from states and/or individuals” and establishing “a [human rights] court which could render binding decisions.”¹¹⁴ So far the working group has not been able to bring them to fruition.

2012 APEC ECONOMIC LEADERS’ DECLARATION

Implicit mention of access to water and sanitation

We acknowledge the increasing importance of encouraging the safe development and implementation of innovative agricultural technologies since land, water, forest and other natural resources are limited. This requires a significant increase of long-term investment into agricultural research, and development along with the adoption of transparent, science-based regulatory approaches for innovative agricultural technologies that are consistent with international obligations. We agree that it is also necessary to strengthen domestic and international agricultural research systems. We will facilitate better coordination, interaction and capacity building among research institutes and innovation centers, including through regional networks. We will encourage dissemination and utilization of innovative technologies by farmers in an effective, market-driven, and voluntary manner. We will also look for ways to mitigate the effects of agriculture on climate change and support efficient and sustainable use of agricultural and natural resources, in particular, land, forests, water and biodiversity.

109 In systems of other regions such as Europe, Africa and the Americas, states or individuals may submit complaints to a human rights body for investigation and consideration of some form of remedy. Within the ASEAN system, there are inter-governmental bodies that consult ASEAN members on human rights. Individuals and states in ASEAN states, however, technically may not submit complaints or seek remedies for human rights breaches.

110 Article 11 of the AICHR (Terms of Reference). Even though the AICHR is the “overarching human rights institution in ASEAN with overall responsibility for the promotion and protection of human rights in ASEAN” (Article 6.8 of the AICHR Terms of Reference) it is stipulated that its status is “consultative.” (Article 3 of the AICHR Terms of Reference). Its function is “to encourage ASEAN Member States to consider acceding to and ratifying international human rights instruments” (Article 4.5 of the AICHR (Terms of Reference)) and “to promote the full implementation of ASEAN instruments related to human rights” (Article 4.6 of the AICHR (Terms of Reference)) among other functions.

111 Article 6.6 of the AICHR (Terms of Reference) states, “the AICHR shall submit an annual report and other appropriate reports to the ASEAN Foreign Ministers Meeting for its consideration.”

112 According to NGO, Human Rights in ASEAN Online Platform, the AICHR initially refused to accept complaints but yielded to pressure and accepted complaints via the enquiry form on its website, which were submitted to the Chair and the Chair passed the complaints to the AICHR Representatives for discussion in closed-door meetings. The NGO has reported that in 2012 six complaints were submitted and accepted by the secretariat that then referred them to the AICHR representatives for discussion. However it seems that no subsequent action has been taken by the AICHR. A list of five complaints are listed on the website of the NGO but it is unclear if these were part of the original six submitted complaints to the AICHR or were further submissions. See website of Human Rights in ASEAN Online Platform at: <http://humanrightsinasean.info/asean-intergovernmental-commission-human-rights/about.html> (last accessed 6 October 2017)

113 The ASEAN Intergovernmental Commission on Human Rights Annual Report 2016, P. 15.

114 See website of the Working Group for an ASEAN Human Rights Mechanism at: <http://www.aseanhrmech.org/aboutus.html> (last accessed on 6 October 2017)

2012 STATEMENT OF APEC MEETING OF MINISTERS RESPONSIBLE FOR THE ENVIRONMENT, KHABAROVSK, RUSSIA

Explicit mention of access to water and sanitation

3. Sustainable water management and trans-boundary watercourses

We recognize that water is at the core of sustainable development and highlight its link to economic growth, poverty reduction, food security, a better sanitary state of the environment and ecosystems protection. Freshwater resources are increasingly stressed in many parts of the planet. In this regard, we note the importance of regional and global partnership efforts to achieving comprehensive and sustainable approaches to the management of water resources.

We note that intensive industrial and agricultural developments, expansion of human settlements, population growth, and increasing per capita consumption all have a significant impact on the hydrological cycle and water resources. We stress the importance of integrated water resource management.

We welcome the efforts made by the APEC Business Advisory Council (ABAC) for ensuring water resources security and underline the importance of the aims of the Water security roadmap for 2012 to promote water resources security. We note the importance of cooperation in the APEC region in the field of sustainable management of water and trans-boundary watercourses.

We encourage cooperation among APEC economies to conduct research on water and water pollution management that can inform cooperative activities and management approaches.

2013 BALI DECLARATION BY PARLIAMENTARIANS AND CIVIL SOCIETY ON THE MDG ACCELERATION AND THE POST 2015 DEVELOPMENT AGENDA

7.3 *Realizing that race, caste, ethnicity and other analogous systems of exclusion and hierarchy marginalize millions who are routinely denied access to water, education, health services, land, markets and employment leading to social exclusion and high levels of poverty, the post-2015 framework should address this as a global concern and collect disaggregated data and develop inclusive policies, goals, targets and indicators. ...*

7.7 *Given that children and young people will be the next generation of adults, we must address their needs and rights through multiple actions: ... addressing stunting and key gaps in nutrition as well as water and sanitation; ... enhancing their employment opportunities recognizing that growth is linked to decent jobs and social protection; and ensuring their meaningful participation in all decision-making processes. ...*

9.1 *The post 2015 development agenda must address, under the state responsibility, issues of quality, universality, and access to public services, including such fundamental rights as the right to food and nutrition for all, right to quality primary and secondary education for all, right to health, right to universal access to housing, sanitation and water with a particular focus on marginalized groups of people.*

 **Explicit mention of the HRWS**

2013 SECOND ASIA-PACIFIC WATER SUMMIT (2ND APWS) IN CHIANG MAI, THAILAND

Explicit and implicit mention of access to water and sanitation

Recognizing that water is at the core of sustainable development and is closely linked to a number of key global challenges, reiterating the importance of integrating water in sustainable development and underlining the critical importance of water and sanitation within the three dimensions of sustainable development as stated in the outcome document of the United Nations Conference on Sustainable Development, entitled “The future we want”, ...

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Do hereby declare to:

1 **1.** Renew the commitment made at the First Asia-Pacific Water Summit, (Beppu, Japan, 2007), to accord high priority to water and sanitation in national agendas and to allocate appropriate resources to water and sanitation sectors; ...

2 **9.** Encourage the adoption of policies and measures to reduce water pollution, combat desertification, improve water quality and protect wetlands, rivers and the other source of fresh water which are among the basic needs of human being and nature; ...

3 **11.** Encourage appropriate consideration of water issues in the discussion of the United Nations development agenda beyond 2015; ...

2014 BANGKOK DECLARATION ON EXTRATERRITORIAL HUMAN RIGHTS OBLIGATIONS

Implicit mention of access to water and sanitation

4 *To fully realise the human rights obligations of States and to ensure that regional economic integration contributes to equitable and sustainable development, we make the following joint statement: ...*

5 **4.** We encourage countries in south-east Asia that have established [National Human Rights Institutions] to ensure that they have strong mandates to monitor and enforce all human rights, including economic, social and cultural rights, as well as adequate human and financial resources. This includes specialised [National Human Rights Institutions], such as institutions dedicated to the promotion of women's human rights. ...

2014 STATEMENT BY THE FOURTH APEC HIGH LEVEL MEETING ON HEALTH AND THE ECONOMY (HLM4)

Implicit mention of access to water and sanitation

6 *HLM4 agrees that the proposed areas of focus for the "Healthy Asia Pacific 2020" initiative should include: unfinished business from the Millennium Development Goals (MDGs) in a manner that complements activities of the post-2015 agenda; prevention and control of antimicrobial resistance and non-communicable diseases, as well as injuries and mental health; strengthening health systems to support Universal Health Coverage and enhance capacity in health research development and innovation; and improved emergency preparedness, surveillance, and recovery systems in the APEC region. ...*

2015 KUALA LUMPUR DECLARATION ON ASEAN 2025: FORGING AHEAD TOGETHER

Implicit mention of access to water and sanitation

7 *Adopts ASEAN 2025: Forging Ahead Together by way of Resolution 5*

8 **5. RESOLVE** that ASEAN Member States as well as ASEAN Organs and Bodies shall implement the ASEAN 2025: Forging Ahead Together, in a timely and effective manner, in accordance with the purposes and principles of the ASEAN Charter;

This includes:

Paragraph C.2. Environmentally Sustainable Cities, Strategic Measures:

(iii) Promote coordination among relevant sectors to provide access to clean land, green public space, clean air, clean and safe water, and sanitation; ...

Paragraph D.5. Enhanced and Optimised Financing Systems, Food, Water, Energy Availability, and other Social Safety Nets in Times of Crises by making Resources more Available, Accessible, Affordable and Sustainable, Strategic Measures:

(iii) Enhance cross-sectoral and cross-pillar coordination to ensure availability of clean water, sanitation facilities and electricity to households in times of crises; ...

2015 DECLARATION ON ASEAN POST-2015 ENVIRONMENTAL SUSTAINABILITY AND CLIMATE CHANGE AGENDA

Implicit mention of access to water and sanitation

RECOGNIZING the need to take an integrated and holistic framework for strategic decision-making in the face of global change to effectively address the challenges of environmental issues in this region including global warming, transboundary pollution, limited safe water supply, biodiversity loss, chemicals and waste, and coastal environmental degradation;

ACKNOWLEDGING the significance of ASEAN's role in addressing environmental sustainability challenges such as climate change, biodiversity conservation, water resources management, sustainable cities, chemical safety, and transboundary pollution;

DO HEREBY DECLARE OUR COMMITMENT TO:

12. *Achieve, by 2020, the environmentally sound management of chemicals and all wastes throughout their life cycle, in accordance with agreed international frameworks and agreements, and significantly reduce their release to air, water and soil in order to minimize their adverse impacts on human health and the environment in the ASEAN region;*

13. *Promote sustainable water resources management through Integrated Water Resources Management (IWRM), Integrated River Basin Management (IRBM) and transboundary water cooperation initiatives within ASEAN by enhancing efforts to implement the new ASEAN Strategic Plan of Action on Water Resources Management to be developed in line with the ASEAN Community Post-2015 Vision; ...*

2015 JOINT STATEMENT OF THE 5TH APEC HIGH LEVEL MEETING ON HEALTH AND THE ECONOMY

The APEC 2015 theme, "Building Inclusive Economies, Building a Better World", underscores the significance of promoting economic cooperation and advancing inclusive growth in the Asia-Pacific region to attain productivity and enhance the quality of life of populations across the region. In this regard, APEC has long recognized the importance of health and life sciences to economic development. ...

Recognizing the critical role of health in economic development, HLM5 recommends that Ministers and Leaders:

- Endorse the Healthy Asia-Pacific 2020 Roadmap. Implementation of "Healthy Asia Pacific 2020 Initiative" will result in sustainable and high performing health systems to promote population health and well-being through their whole life course by means of whole-of-government, whole-of-society and whole-of-region approach to promote the health security, growth and development of Asia-Pacific region.

- Support health's increasing prominence on APEC's agenda and the continuation of partnerships and engagement with academia, civil society, and the private sector as well as robust participation of officials responsible for trade, finance, and health policy to ensure that health continues to have a role in promoting economic cooperation and inclusive growth in the region. ...

[Accordingly, The Healthy Asia Pacific 2020 Roadmap sets forth: ...]

To fully achieve the goals set forth in the Healthy Asia Pacific 2020 initiative, APEC economies may wish to undertake the following complementary actions:

A. *Continue the unfinished business of the MDGs as they transition to SDGs in the context of Universal Health Coverage*

1. *Promote early childhood health and development and adolescent health*

2. *Prevent maternal deaths including universal access to women's health services (e.g. antenatal, postnatal and family planning services)*

3. *Ensure sustainable access to safe drinking water, basic sanitation, and safe blood ...*

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2015 APEC ECONOMIC LEADERS' DECLARATION

Implicit mention of access to water and sanitation

5. To make urbanisation work for growth. a. Our cities are potential centers of creativity and innovation, providing jobs and livelihoods for billions of people. We emphasise the importance of proper planning and adequate infrastructure for sustainable city development. We therefore welcome the work of our officials to discuss the challenges of rapid urbanisation in APEC, including innovative ways of addressing waste management and water-related challenges. ...We recognise that the region's shifting demography, including ageing populations and urbanisation, has profound implications for the region's food system. We will enhance efforts to improve security and safety of the region's food supply, sustainable agricultural and water management, and seek to increase citizens' access to food including through better connectivity between urban, rural, and remote areas; facilitation of investment and infrastructure development; and reduction of food loss and waste along the food value chain. ...

2016 BANGKOK DECLARATION, 2ND ASIA COOPERATION DIALOGUE (ACD) SUMMIT "ONE ASIA, DIVERSE STRENGTHS"

Implicit mention of access to water and sanitation

(4) We resolve to strengthen the framework of Asia cooperation by giving priority to the agreed 6 consolidated pillars of cooperation that are in line with the United Nations 2030 Agenda for Sustainable Development to promote inclusive growth and sustainable development in the region, with Member States designated as Prime Mover(s) in each pillar, as follows:

- Interrelation of Food, Water, and Energy Security: China, UAE, Viet Nam (co-prime mover), Indonesia (co-prime mover), Saudi Arabia (co-prime mover), Bahrain (co-prime mover), Bangladesh (co-prime mover), Indonesia (co-prime mover), the Philippines (co-prime mover) ...

For the [Asia Cooperation Dialogue] to be results and action-oriented, we encourage those Member States which are the Prime Movers in each pillar to establish an open-ended Working Group to drive cooperation under the pillar forward.

4.1 Interrelation of Food, Water, and Energy Security

We are committed to ensuring food, water and energy for all people in our continent. Therefore, we share a common goal to increase Asia's capacity in addressing the interrelation of food, water and energy security through technical assistance, capacity building, sharing best practices, experiences and technology in the region, and strengthening cooperation on sustainable management and utilization of water resources.

2016 JOINT STATEMENT OF THE 6TH APEC HIGH-LEVEL MEETING ON HEALTH & THE ECONOMY

Implicit mention of access to water and sanitation

1. Health Ministers of Chile, Malaysia, Peru, Philippines, and Vietnam; the State Minister of Health, Labour, and Welfare of Japan; the Deputy Health Minister of Chinese Taipei; the Head of the Department of Health of Papua New Guinea; senior officials; academic and industry leaders, representatives of non-governmental and international organisations met in Lima, Peru on 21-22 August 2016 for the 6th APEC High Level Meeting on Health and the Economy (HLM6). The meeting was chaired by the Minister of Health of Peru and organised jointly by the Health Working Group (HWG) and the Life Sciences Innovation Forum (LSIF). The overall objective of the meeting was to share and discuss perspectives and experiences prioritising and financing investments in health and building innovative and efficient health systems to implement "Healthy Asia Pacific 2020 (HAP2020)" in support of the 2030 Sustainable Development Goals (SDGs). Both HAP2020 and the SDGs recognise that high impact investments in health systems yield tremendous benefits that help economies achieve their economic, social, and environmental goals.

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2. HAP2020, welcomed by APEC Leaders in November 2014, calls on APEC Economies to develop sustainable and high performing health systems. In 2015, APEC Economies, under the leadership of the Philippines, developed and endorsed the HAP2020 Roadmap to guide implementation. Likewise, in September 2015 the United Nations (UN) General Assembly adopted the SDGs. The focus for implementation of HAP2020 is specifically SDG 3 “Ensure healthy lives and promote well-being for all at all ages” and its 13 targets, including enhancing prevention and control of non-communicable diseases (NCDs) and promoting mental health and well-being, substantially increasing health financing, supporting the research and development of new vaccines and medicines, building a strong health workforce, and achieving universal health coverage. ...

2016 APEC ECONOMIC LEADERS’ DECLARATION

Implicit mention of access to water and sanitation

Food security, climate change and access to water ...

We recognise that water is a key driver of agricultural development and a basic element for socio-economic development across the APEC region. Thus we encourage economies to share best practices in water management to ensure water availability and increase water use efficiency, considering multi-sectoral and multi-level perspectives. We will foster APEC cooperation for the sustainable use and integrated management of water resources. ...

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WATERLEX



CHAPTER 9

THE RIGHTS TO WATER AND SANITATION IN THE PAN-EUROPEAN REGION

**By Maraya Best, in collaboration with
Prof. Martha Davis and Alicia Cook
Northeastern University School of Law**

Rights to water and sanitation in Europe are derived from a myriad of different sources. While the right to water in this region was initially derived from declarations more classically dedicated to human rights such as the European Water Charter adopted by the Council of Europe (COE) in 1968, today, the rights to water and sanitation are more readily enforceable through regional health, safety, and environmental documents which enumerate specific water and sanitation quality and quantity standards. Though it does not encompass every European nation, the European Union (EU) has the capacity to create binding norms over its Member States. As the EU has grown, so has the number of Council Directives used to enforce water quality and quantity standards amongst Member States. Directives, however, are largely only enforceable on the state level and are therefore more difficult to apply in situations involving individual human rights deprivations.

The primary mechanism for individual rights enforcement in Europe remains the European Court of Human Rights. While rights to water and sanitation are not explicitly enumerated in the European Convention on Human Rights, the court may nonetheless hear complaints of deprivations of such rights if they are brought under the auspice of other rights, such as the right to life and the right to freedom from cruel and inhumane treatment. In fact, the court has discussed the HRWS in several cases, thereby bringing it into the penumbra of social rights guaranteed to European citizens. Additionally, as compared to other international judicial mechanisms, the European Court of Human Rights is an active and influential body. Similarly, the European Committee of Social Rights has heard cases related to water and sanitation under several articles of the European Social Charter, in particular those on the right to health and the right to housing.

Overall, Europe as a region has a surprising number of tools through which advocates can advance the rights to water and sanitation, ranging from soft law declarations and resolutions to tangible environmental standards. Additionally, these rights are discussed both explicitly and implicitly in the context of a wide variety of topics such as the environment, health, immigration, and development. This chapter explores the relevant sections major mechanisms dedicated to safeguarding water and sanitation in Europe. Despite not consistently articulating these rights in strictly human rights terms, the European Union and the Council of Europe have made it clear that European citizens have an entitlement to clean water and sanitary conditions.

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9.1. FRAMEWORK OF THE COUNCIL OF EUROPE

9.1.1. BINDING INSTRUMENTS



Convention for the Protection of Human Rights and Fundamental Freedom (1950)

The Convention for the Protection of Human Rights and Fundamental Freedom, which entered into force in 1956, is also referred to as the European Convention on Human Rights. It was the first instrument to enshrine in a legally binding instrument certain of the rights found in the Universal Declaration of Human Rights. Although the Convention does not contain explicit clauses on the HRWS, various articles related to access to water and sanitation as per the jurisprudence of the European Court of Human Rights.

The European Court of Human Rights, established under Article 19 of the Convention, is the mechanism to hear individual complaints on violations of human rights under the Convention. This court has mainly addressed the HRWS in its provisions on the prevention of inhumane treatment. Under Article 46 of the Convention, the High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties. The Convention also puts forth an inquiry mechanism under Article 52, however, this mechanism is rarely used.



Right to life - Article 2:

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally ...



Prohibition of torture - Article 3:

1. No one shall be subjected to torture or to inhuman or degrading treatment or punishment ...

As interpreted by the European Court of Human Rights

Case - *Tadevosyan v Armenia*, 41698/04 Eur. Ct. H.R. (2008)

53. "The Court ... notes that at no time during his stay in the detention facility was the applicant allowed unrestricted access to the toilet or drinking water, his visits to the toilet or drinking water facilities being limited to only twice a day. ... The Court reiterates that it is unacceptable for a person to be detained in conditions in which no provision has been made for meeting his or her basic needs."

57. "... having regard to the cumulative effects of the conditions of the applicant's detention as described above, the Court considers that the hardship the applicant endured appears to have exceeded the unavoidable level inherent in detention and finds that the resulting suffering and feelings of humiliation and inferiority went beyond the threshold of severity under Article 3 of the Convention."

Case - *Fedotov v Russia*, 5140/02 Eur. Ct. H.R. (2005)

68. "The Court notes that the applicant was kept overnight in a cell unfit for an overnight stay, without food or drink or unrestricted access to a toilet. These unsatisfactory conditions exacerbated the mental anguish caused by the unlawful nature of his detention. In these circumstances, the Court considers that the applicant was subject to inhuman treatment, incompatible with Article 3 of the Convention."



Right to respect for private and family life - Article 8:

1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

As interpreted by the European Court of Human Rights

Case - Dubetska and Others v. Ukraine, 30499/03 Eur. Ct. H.R. (2011)

118. "Consequently, it appears that for a period exceeding twelve years since the entry of the Convention into force in respect of Ukraine, the applicants were living permanently in an area which, according to both the legislative framework and empirical studies, was unsafe for residential use on account of air and water pollution and soil subsidence resulting from the operation of two State-owned industrial facilities."

119. "In these circumstances the Court considers that the environmental nuisance complained about attained the level of severity necessary to bring the complaint within the ambit of Article 8 of the Convention."



European Social Charter [revised 1996]

The European Social Charter contains mostly "economic and social" rights as opposed to "civil and political" rights enshrined in the European Convention on Human Rights. The Charter has a ratification system which enables States to be legally bound by certain provisions of the Charter, while being encouraged to gradually accept to all provisions.¹¹⁵

Compliance with the European Social Charter is monitored by the European Committee of Social Rights. The Committee receives reports from States Parties on the implementation of their obligations and adopts conclusions upon examination of the reports. The conclusions are not enforceable in the domestic legal systems but must be respected by the States concerned.

In addition to being responsible for the reporting procedures, the European Committee of Social Rights (ESCR) is also mandated to monitor compliance with the Charter through collective complaints, for States that declare their acceptance of this mechanism.¹¹⁶ This committee may review collective complaints (submitted by "social partners" and non-governmental organisations) and reports given by State Parties. While complaints received will be judged on their merits, they are not directly "enforceable in the domestic legal system." However, states are requested to respect these decisions and these decisions are published. Reports given by parties on the other hand are reflected upon in the Committee's "conclusions," which are declaratory and legally binding on national authorities.

Contrary to the applications before the European Court of Human Rights, only collective complaints, as opposed to individual complaints, can be lodged before the European Committee of Social Rights. Because individual situations are therefore not addressed, domestic remedies must not be exhausted.¹¹⁷

115 For more information on the ratification system, consult <https://www.coe.int/en/web/turin-european-social-charter/provisions-of-the-charter>.

116 The mechanism was set out in the 1995 Additional Protocol. For relevant provisions on the complaints mechanism, see Article D of Part IV of the revised European Social Charter, and Articles 1, 2(1), 3, 4, 8(1), 9(1) and 10 of the 1995 Additional Protocol.

117 For more information on mechanisms under the European Social Charter, see <https://www.coe.int/en/web/turin-european-social-charter/reporting-system>.

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RATIFICATION SYSTEM

Part III Article A- Undertakings ... each of the Parties undertakes:

- a. to consider Part I of this Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part;
- b. to consider itself bound by a least six of the following nine articles of Part II of this Charter: Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20;
- c. to consider itself bound by an additional number of articles or numbered paragraphs of Part II of the Charter which it may select, provided that the total number of articles or numbered paragraphs by which it is bound is not less than sixteen articles or sixty-three numbered paragraphs.

IMPLICIT MENTION OF WATER AND SANITATION IN PART II OF THE TREATY

The right to safe and healthy working conditions - Article 3:

With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers' and workers' organisations: 1. to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. The primary aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, particularly by minimising the causes of hazards inherent in the working environment; 2. to issue safety and health regulations; 3. to provide for the enforcement of such regulations by measures of supervision; 4. to promote the progressive development of occupational health service...

The right to protection of health - Article 11:

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia: 1. to remove as far as possible the causes of ill-health; 2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health; 3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

As interpreted by the European Committee of Social Rights

Case - International Federation for Human Rights v. Greece, 72/2011 (2013)

153. "In summary, the Committee considers that the Greek State has failed to take appropriate measures to remove as far as possible the causes of ill-health and to prevent as far as possible diseases on the basis of: ... the deficiencies in the implementation of existing regulations and programmes regarding the pollution of Asopos River and its negative effects on health; the difficulties encountered in the co-ordination of the relevant administrative activities by competent bodies at national, regional and local level; the shortcomings regarding spatial planning; the poor management of water resources and waste; the problems in the control of industrial emissions and the lack of appropriate initiatives with respect to the presence of Cr-6 in the water."

154. "The Committee therefore holds that these deficiencies constitute a violation of Article 11§1 and 3 of the Charter."

Conclusions by the European Committee of Social Rights 2015, Georgia

P. 23. "The Committee concludes that the situation in Georgia is not in conformity with Article 11§3 of the Charter on the ground that adequate measures have not been taken to ensure access to safe drinking water in rural areas."



The right of the family to social, legal and economic protection - Article 16:

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.

As interpreted by the European Committee of Social Rights

Case - International Federation of Human Rights (FIDH) v. Belgium, 62/2010 (2012)

114. "Lastly, the Committee notes that the FIDH fails to illustrate its additional allegation concerning the fact that the sites made available for Traveller families should be equipped with basic amenities enabling them to lead a decent life and be located in an appropriate environment. It may not therefore express any opinion on this aspect of the complaint. It points out nonetheless that the obligation to ensure that housing is adequate or, in other words, sanitary, applies equally to persons living in mobile homes. This means that public sites for Travellers must be properly fitted out with the basic amenities necessary for a decent life. Such sites must possess all the basic amenities, such as water, waste disposal, sanitation facilities, electricity, and must be structurally secure, not overcrowded and with secure tenure supported by law ..."



The right of children and young persons to social, legal and economic protection - Article 17:

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed: 1. a. to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose; ... c. to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support...



The right of elderly persons to social protection - Article 23:

With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular: to enable elderly persons to remain full members of society for as long as possible, by means of: a. adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life; b. provision of information about services and facilities available for elderly persons and their opportunities to make use of them; to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of: a. provision of housing suited to their needs and their state of health or of adequate support for adapting their housing; b. the health care and the services necessitated by their state; to guarantee elderly persons living in institutions appropriate support, while respecting their privacy...



The right to protection against poverty and social exclusion - Article 30:

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake: a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance...



The right to housing - Article 31:

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: 1. to promote access to housing of an adequate standard; 2. to prevent and reduce homelessness with a view to its gradual elimination; 3. to make the price of housing accessible to those without adequate resources.

As interpreted by the European Committee of Social Rights

Case - Defence for Children International v. The Netherlands, 47/2008 (2009)

62. "As to the living conditions in a shelter, under Article 31(2) the Committee holds that they should be such as to enable living in keeping with human dignity ... The requirement of dignity in housing means that even temporary shelters must fulfil the demands for safety, health and hygiene, including basic amenities, i.e. clean water, sufficient lighting and heating."

Case - European Roma Rights Centre v. Italy, 27/2004 (2005)

35. "Article 31§1 guarantees access to adequate housing, which means a dwelling which is structurally secure; safe from a sanitary and health point, i.e. it possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity; not overcrowded and with secure tenure supported by law ... The temporary supply of shelter cannot be considered as adequate and individuals should be provided with adequate housing within a reasonable period."

36. "The Committee recalls that Article 31§1 E enshrines the prohibition of discrimination and establishes an obligation to ensure that, in absence of objective and reasonable justifications (see paragraph 1 of the Appendix), any group with particular characteristics, including Roma, benefit in practice from the rights in the Charter. On the contrary, by persisting with the practice of placing Roma in camps the Government has failed to take due and positive account of all relevant differences, or adequate steps to ensure their access to rights and collective benefits that must be open to all."

37. "The Committee therefore finds that Italy failed to show that:

- it has taken adequate steps to ensure that Roma are offered housing of a sufficient quantity and quality to meet their particular needs;
- it has ensured or has taken steps to ensure that local authorities are fulfilling their responsibilities in this area.

The Committee therefore finds that the situation constitutes a violation of Article 31§1 taken together with Article E¹¹⁸."

Conclusion by the European Committee of Social Rights - Conclusions 2003, France

p. 224. "The Committee considers that it is incumbent on the public authorities to ensure that housing is adequate through different measures ... Public authorities must also guard against the interruption of essential services such as water, ..."

9.1.2. NON-BINDING INSTRUMENTS

EUROPEAN CHARTER ON WATER RESOURCES (2001)

This charter replaced the 1968 European Water Charter. It maintains the goals of the previous charter but provides specific obligations for states in terms of the realisation of an equitable and reasonable water policy in Europe. Importantly, this later charter (adopted in 2001, through Recommendation Rec(2001)14 of the Committee of Ministers to Member States on the European Charter on Water Resources) still maintains that water is necessary for life and that "everyone has the right to a sufficient quantity of water for his or her basic needs," officially couching water quality and access in Europe as a fundamental human right.

118 Article E is on non-discrimination.

EXPLICIT MENTION OF THE HUMAN RIGHT TO WATER AND RELATED CLAUSES

1. Fresh water resources must be used in keeping with the objectives of sustainable development, with due regard for the needs of present and future generations.
5. Everyone has the right to a sufficient quantity of water for his or her basic needs.
19. Without prejudice to the right to water to meet basic needs, the supply of water shall be subject to payment in order to cover financial costs associated with the production and utilisation of water resources.

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PAN-EUROPEAN REGION

PRIORITISATION

9. Underground water resources must be the subject of special protection, and their use for human consumption must take priority.

PUBLIC PARTICIPATION, ACCESS TO INFORMATION AND RIGHT TO APPEAL

16. The public must have access to information on the state of water resources.
17. The public must be informed in a timely and appropriate manner of water management plans and projects for the utilisation of water resources. It has the right to take an active part in planning and decision-making procedures concerning water.
18. The persons and bodies concerned must be able to appeal against any decision relating to water resources.

WATER MANAGEMENT PRINCIPLES

2. Water must be equitably and reasonably used in the public interest.
3. Water policy and law must protect the aquatic ecosystems and wetlands.
4. It is up to everyone to help conserve water resources and use them prudently, in conformity with this charter.
6. Public and private partners must introduce integrated management of surface water, ground water and related water that respects the environment as a whole, takes regional planning into account and is socially equitable and economically rational. ...
8. Water policy and law must be based on the principles of prevention, precaution and correction at source as well as the "polluter-pays" principle. To this end, they must use regulatory instruments such as quality objectives, discharge standards, the best available technologies and economic instruments compatible with meeting the population's basic needs.
10. Water resources must be regularly monitored and their general state periodically assessed. Programmes must be devised and implemented to monitor the state of water.
11. The terms of water concessions must be compatible with this charter. Concessions must be granted for a limited duration and must be subject to periodic review. ...
14. Decisions on water must take into account the particular conditions at regional or local level and be implemented by the relevant authorities closest to the areas concerned in keeping with water management plans. ...
19. Without prejudice to the right to water to meet basic needs, the supply of water shall be subject to payment in order to cover financial costs associated with the production and utilisation of water resources.

PARLIAMENTARY ASSEMBLY RESOLUTION 747 (1981) GLOBAL PROSPECTS - HUMAN NEEDS AND THE EARTH'S RESOURCES

The Assembly, ...

18. Declaring support for the designation of the 1980s as the International Drinking Water Supply and Sanitation Decade, and urging the international and national authorities to instigate:

- 18.1. regional water saving plans in all parts of the world,
- 18.2. national projects for sanitation improvement, and
- 18.3. country by country propaganda campaigns to establish a firmly based public awareness of the alarming fact that water is increasingly becoming one of the limited global resources; ...

26. Calls for specific European initiatives in order to enhance public awareness of the global prospects so far as human needs and the earth's resources are concerned as well as promoting reinforced political and economic activities in a field so vital to the future of mankind, and therefore invites all Council of Europe member states: ...

26.4. to encourage the establishment of committees for the preservation of the earth's resources and the satisfaction of basic human needs, in which political parties, trade unions, religious organisations, youth movements and other civic associations can join hands and work for increased development and co-operation in order to improve the prospects for global human survival.

1 **PARLIAMENTARY ASSEMBLY RECOMMENDATION 1224 (1993) PROTECTION AND MANAGEMENT OF FRESHWATER RESOURCES IN EUROPE**

14. The Assembly ... recommends that the Committee of Ministers invite member states:

2 14.1. to encourage any initiative concerned with water management designed to safeguard its quality and quantity, not only today but also for future generations;

3 14.2. to ensure that the water resources managers - either public or private - exercise a pricing policy determined by the totality of the exploitation costs including, if possible, those induced by sewerage, and fixed to correspond scrupulously to the cost of production according to the basic consumption indispensable for everyone;

4 14.3. to take into consideration the contribution of the non-governmental organisations in the formulation and implementation of the policies regarding protection and freshwater resources management.

5 **PARLIAMENTARY ASSEMBLY RECOMMENDATION 1668 (2004) MANAGEMENT OF WATER RESOURCES IN EUROPE**

6 3. The Assembly recommends avoiding any interpretation of the [European] charter [on Water Resources] resulting in limiting the traditional use of water resources (drinking water and agriculture), particularly in mountain regions, increasing their financial and administrative costs or disregarding the rights of mountain communities to use water resources on their territory for the generation of energy.

7 7. The key concept for sustainable development is integration. Integrated water management is a fundamental prerequisite for sustainable development and for the future of the European continent and the planet, with implications in all aspects of human life including drinking water supply, sanitation ...

8 **PARLIAMENTARY ASSEMBLY RESOLUTION 1449 (2005) THE ENVIRONMENT AND THE MILLENNIUM DEVELOPMENT GOALS**

9 **EXPLICIT MENTION OF THE RIGHTS TO WATER AND SANITATION**

15. ... the Assembly recommends that member states:

- ensure access to water and sanitation for all, which should be considered as a fundamental human right;
- address the burden placed on local authorities regarding the provision of water and sanitation and the importance of improving local and regional capacity (technical, technological and financial) to achieve this goal;

OTHER CLAUSES ON WATER GOVERNANCE

- improve water governance and facilitate decentralisation of decision making on water and sanitation matters;
- develop integrated water resource management and water efficiency plans, including the establishment of the necessary legal and institutional frameworks; ...
- support and fully engage on the EU Water Initiative, designed to contribute to achieving global targets for drinking water and sanitation by mobilising a wide range of partners to increase co-ordination and co-operation on water issues at all levels, under the overarching policy framework of integrated water resources management based on a river basin approach;
- step up efforts to curb unsustainable consumption and production patterns through regulations, economic incentives, ecological tax reform, public information and education;
- integrate environmental issues in the dialogue with partner countries and support them to meet their obligations under environmental agreements;
- incorporate the sustainable management of natural resources, including biodiversity, in development co-operation programmes; ...
- join efforts with international donors to tackle the main challenges identified by member states, such as:
 - a. strengthen institutions and law enforcement;
 - b. develop adequate legal frameworks;
 - c. develop sectoral strategies, particularly in water and air quality;
 - d. increase financial resources;

- e. improve public awareness and public participation;
- f. build capacity to collect and analyse data;
- g. develop local capacities;
- h. integrate ecological and social priorities in the reforms that central and eastern European countries are currently undertaking;
 - establish multifunctional agricultural policies so as to preserve life's essential elements: water, air and soil;

MILLENNIUM
DEVELOP-
MENT
GOALS
(MDGS)

- work with UN agencies to develop effective follow-up and monitoring systems to assess progress in meeting the MDGs and the actions needed;

PARLIAMENTARY ASSEMBLY RECOMMENDATION 1731 (2006) EUROPE'S CONTRIBUTION TO IMPROVING WATER MANAGEMENT

 Call to consider
access to water as a
fundamental human
right – mention of
sanitation

5. Recognising access to water as a fundamental human 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. A rights-based approach to water would be a very important means for civil society to hold their governments accountable for ensuring access to an adequate quantity of good quality water as well as sanitation.

8. The Assembly reiterates the recommendations to member states made in Resolution 1449 (2005) and draws attention to the urgency to take action to: 8.1. ensure access to water and sanitation for all; such access to water should be considered a fundamental human right;

11. The Assembly asks the Committee of Ministers to:

11.1. continue the involvement of the Council of Europe in this important issue and support a rights based approach to water;

11.2. actively participate in international efforts to take forward the water management agenda; ...

11.4. call on member states to:

11.4.1. intensify regional efforts to improve water management, in particular regarding shared lakes and rivers;

11.4.2. develop integrated water management policies and laws and consider the adoption of framework laws that take account of the social, economic and environmental aspects of water resources and their sustainable management, such as the European Union Water Framework Directive and Water Initiative;

11.4.3. decentralise water management regimes to local and regional authorities and enable them to carry out these tasks through appropriate legislative, technical and financial means;

PARLIAMENTARY ASSEMBLY RESOLUTION 1637 (2008) EUROPE'S BOAT PEOPLE: MIXED MIGRATION FLOWS BY SEA INTO SOUTHERN EUROPE

9. The Assembly calls on Mediterranean member states of the Council of Europe receiving mixed flows of irregular migrants, refugees and asylum seekers to: ... 9.8. ensure that all reception centres or detention centres provide:

9.8.1. appropriate food and sufficient quantities of drinking water;

9.8.2. adequate clothing and change of clothing, bedding, blankets, toiletries, etc.; ...

9.8.4. separate accommodation and separate sanitation for men, women and unaccompanied minors;

9.8.5. adequate sanitation facilities which are kept clean and in serviceable operation;

9.8.6. regular access to the open air during substantial parts of the day;

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PARLIAMENTARY ASSEMBLY RESOLUTION 1693 (2009) WATER: A STRATEGIC CHALLENGE FOR THE MEDITERRANEAN BASIN

EXPLICIT MENTION OF THE RIGHT(S) TO WATER AND SANITATION

2. The Assembly stresses that access to water must be recognised as a fundamental human right because it is essential to life on earth and is a resource that must be shared by humankind.

12. The Assembly also refers to the proposals put forward by parliaments at the 5th World Water Forum in Istanbul on 19 March 2009, during which the participants highlighted the importance of the role of parliamentarians in drawing up rules concerning water management, water supply, generalisation of the principle of the right to water and the implementation of water policies with due regard for climate change.

13. However, the Assembly regrets that the Istanbul Ministerial Statement of 22 March 2009 does not recognise the right to water and sanitation as a human right.

15. The Assembly welcomes the fact that world leaders and heads of developing countries agreed on the need to recognise as a human right the access by all the world's populations to sources of water at the G8 meeting in L'Aquila (8-10 July 2009).

OTHER RELEVANT CLAUSES ON WATER AND SANITATION

10. The Assembly points out that the uncontrolled discharge of municipal and industrial waste water and polluted rainwater is affecting many people's health and causing heavy economic losses, whether through loss of income or the costs to health.

11. The Assembly refers, in this connection, to the commitments entered into by the heads of state and government of the Council of Europe member states at the 3rd Summit of Heads of State and Government of the Council of Europe in Warsaw on 17 May 2005 to fulfil "everyone's entitlement to live in a balanced, healthy environment" and to improve "the quality of life for citizens" by developing integrated policies in the environment field "in a sustainable development perspective." ...

RECOMMENDATIONS OF THE ASSEMBLY

16. The Assembly ... recommends that member and non-member states and, in particular, the countries of the Mediterranean Basin:

16.1. take the measures needed to ensure that everyone has access to water and sanitation;

16.2. urgently promote transregional and transboundary co-operation on water;

16.3. introduce a culture of water awareness and water education;

16.4. devise co-operation policies encouraging the transfer of technology to those countries which need it most, particularly in the area of seawater desalination and the recycling of waste water;

16.5. develop research programmes leading to the establishment of a European water resources database on the state of water resources;

16.6. develop the opportunities provided by water as a source of thermal and renewable energy;

16.7. draw up environmentally-friendly water resource management programmes;

16.8. decentralise water management systems to make them the responsibility of local and regional authorities, and give the latter the necessary legal powers and financial resources;

16.9. set up centres providing training in water trades and water technology;

16.10. inform and involve the public, in particular the young generations, by instilling in them a sense of responsibility for water resources;

16.11. take steps to make water sanitation techniques more generally available.

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PARLIAMENTARY ASSEMBLY RESOLUTION 1809 (2011) WATER - A SOURCE OF CONFLICT

 Resolution 1809 made explicit reference to UN GA and HRC resolutions on the HRWS

14. The Assembly ... recommends that the authorities of the member and non-member states of the Council of Europe:

EXPLICIT MENTION OF THE RIGHTS TO WATER AND SANITATION

14.1. recognise that access to water is a fundamental human right, in line with the United Nations General Assembly Resolution 64/292 of 28 July 2010 and United Nations Human Rights Council Resolution 15/9 of 30 September 2010; ...

14.9. promote fairer water charges and provide distribution services of drinking water of good quality and in sufficient quantities as well as acceptable, accessible and affordable sanitation services, as recommended in the Human Rights Council Resolution 15/9;

CLAUSES ON WATER MANAGEMENT AND GOVERNANCE

14. The Assembly ... recommends that the authorities of the member and non-member states of the Council of Europe:

- 14.2. apply and, if necessary, revise the rules of international water law;
- 14.3. review the systems for the joint management of transfrontier rivers and aquifers;
- 14.4. take the necessary measures to manage river basins; ...
- 14.10. provide all citizens with means of calling their government to account and demanding compensation arrangements, where appropriate;
- 14.11. set up a programme of assistance and co-operation with countries which suffer from water shortages;
- 14.12. take measures to control the use of groundwater to promote savings and avoid waste;
- 14.13. introduce measures for the desalinisation of water to transform sea water cheaply into drinking water;
- 14.14. review agricultural practices and policies to ensure that they are viable, by encouraging investments in efficient irrigation systems and fostering technology transfers in this field between developed and developing countries;
- 14.15. set up strict monitoring of the risks of accidental pollution;
- 14.16. establish a database containing meteorological, hydrological and socio-economic information.

15. The Assembly also recommends that local and regional authorities ensure that their citizens are provided with a good quality water treatment system.

PARLIAMENTARY ASSEMBLY RESOLUTION 1957 (2013) FOOD SECURITY – A PERMANENT CHALLENGE FOR US ALL

- 8. ... the Assembly urged member States to: ... 8.5. in respect of regulatory mechanisms:
- 8.5.1. ensure full implementation of the human right to adequate food by recognising, in their legislation, the enforceability of this right, together with the related human right of access to clean water;

 Explicit mention of the right to water

PARLIAMENTARY ASSEMBLY RESOLUTION 2140 (2016) THE EXPLORATION AND EXPLOITATION OF NON-CONVENTIONAL HYDROCARBONS IN EUROPE

- 6. The Assembly is deeply concerned about threats to the environment and public health related to the exploration and exploitation of shale gas and oil, in particular in relation to water contamination, air quality and local environmental harm. In light of the above considerations, the Assembly urges all member States to clarify and strengthen their legislation in this field, including bans on fracking in favour of cleaner energy alternatives.
- 7. Pending a possible ban on fracking, the Assembly recommends limiting and controlling the exploration and exploitation of non-conventional hydrocarbons by adopting strict environmental regulations which:
 - 7.1. impose a compulsory environmental impact assessment for any fracking project, including the impact on air and water quality and climate change;

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PAN-EUROPEAN REGION

9.1.3. THE COMMISSIONER FOR HUMAN RIGHTS

The Commissioner for Human Rights is an independent institution dedicated to monitoring and raising awareness of human rights obligations among Member States. It is thus a reporting mechanism and is entitled to state as a third-party intervenor in cases before the European Court of Human Rights (see Article 36, European Convention on Human Rights). Without a distinct mechanism on the human rights to water and sanitation, the Commissioner addresses water and sanitation-related issues throughout its work. For example, it issued recommendations on the Implementation of the right to housing, whereby access to water and sanitation were addressed,¹¹⁹ and monitored access to water and sanitation in country visits.¹²⁰

Thematic mechanisms have been also established in the framework of the Council of Europe, some of them tackling water and sanitation throughout their mandates.¹²¹

9.2. FRAMEWORK OF THE EUROPEAN UNION

9.2.1. BINDING INSTRUMENTS



The EU Charter of Fundamental Rights (2000)



The Charter became legally binding with the entry into force of the Treaty of Lisbon in 2009.



Human dignity - Article 1:

Human dignity is inviolable. It must be respected and protected.



Right to life - Article 2:

1. Everyone has the right to life. 2. No one shall be condemned to the death penalty, or executed.



Prohibition of torture and inhuman or degrading treatment or punishment - Article 4:

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

119 See e.g. Recommendation of the Commissioner for Human Rights on the Implementation of the Right to Housing, 2009, available at: <https://rm.coe.int/16806da713>.

120 See e.g. 1st Quarterly Activity Report 2015 by Nils Muiznieks, Commissioner for Human Rights, p. 9.

121 E.g. European Commission against Racism, General Policy Recommendation No. 13 on Combating Anti-Gypsyism and Discrimination against Roma, p. 9; European Committee for the prevention of Torture and Inhuman or Degrading Treatment or Punishment, Women deprived of their liberty, para 31.

 **Right to property - Article 17:**

1. Everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss. The use of property may be regulated by law in so far as is necessary for the general interest.

 **Non-discrimination - Article 21:**

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. 2. Within the scope of application of the Treaties and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited.

 **The rights of the child - Article 24:**

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity. 2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. 3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.

 **The rights of the elderly - Article 25:**

The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.

 **Health care - Article 35:**

Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities.

 **Environmental protection - Article 37:**

A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

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Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources

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Article 1:

This Directive has the objective of:

- reducing water pollution caused or induced by nitrates from agricultural sources and
- preventing further such pollution.

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Article 3:

1. Waters affected by pollution and waters which could be affected by pollution if action pursuant to Article 5 is not taken shall be identified by the Member States in accordance with the criteria set out in Annex I. 2. Member States shall, within a two-year period following the notification of this Directive, designate as vulnerable zones all known areas of land in their territories which drain into the waters identified according to paragraph 1 and which contribute to pollution. ... 4. Member States shall review if necessary revise or add to the designation of vulnerable zones as appropriate, and at last every four years, to take into account changes and factors unforeseen at the time of the previous designation. ... 5. Member States shall be exempt from the obligation to identify specific vulnerable zones, if they establish and apply action programmes referred to in Article 5 in accordance with this Directive throughout their national territory.

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Article 5:

1. Within a two-year period following the initial designation referred to in Article 3 (2) or within one year of each additional designation referred to in Article 3 (4), Member States shall, for the purpose of realizing the objectives specified in Article 1, establish action programmes in respect of designated vulnerable zones. 2. ... The Member States concerned shall organize, where appropriate with the Commission, the concertation necessary to identify the sources in question and the measures to be taken to protect the waters that are affected in order to ensure conformity with this Directive. ...

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Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption

This Directive repealed Council Directive 80/77/EEC of 15 July 1980 relating to the quality of water intended for human consumption, which is no longer in force.



Objectives - Article 1:

1. This Directive concerns the quality of water intended for human consumption. 2. The objective of this Directive shall be to protect human health from the adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean.



General obligations - Article 4:

1. ... Member States shall take the measures necessary to ensure that water intended for human consumption is wholesome and clean. For the purposes of the minimum requirements of this Directive, water intended for human consumption shall be wholesome and clean if it: (a) is free from any micro-organisms and parasites and from any substances which, in numbers or concentrations, constitute a potential danger to human health, and (b) meets the minimum requirements set out in Annex I, Parts A and B; and if, in accordance with the relevant provisions of Articles 5 to 8 and 10 and in accordance with the Treaty, Member States take all other measures necessary to ensure that water intended for human consumption complies with the requirements of this Directive. 2. Member States shall ensure that the measures taken to implement this Directive in no circumstances have the effect of allowing, directly or indirectly, either any deterioration of the present quality of water intended for human consumption so far as that is relevant for the protection of human health or any increase in the pollution of waters used for the production of drinking water.



Remedial action and restrictions in use - Article 8:

1. Member States shall ensure that any failure to meet the parametric values set in accordance with Article 5 is immediately investigated in order to identify the cause. 2. If, despite the measures taken to meet the obligations imposed in Article 4(1), water intended for human consumption does not meet the parametric values set in accordance with Article 5, and subject to Article 6(2), the Member State concerned shall ensure that the necessary remedial action is taken as soon as possible to restore its quality and shall give priority to their enforcement action, having regard inter alia to the extent to which the relevant parametric value has been exceeded and to the potential danger to human health. 3. Whether or not any failure to meet the parametric values has occurred, Member States shall ensure that any supply of water intended for human consumption which constitutes a potential danger to human health is prohibited or its use restricted or such other action is taken as is necessary to protect human health. In such cases consumers shall be informed promptly thereof and given the necessary advice. 4. The competent authorities or other relevant bodies shall decide what action under paragraph 3 should be taken, bearing in mind the risks to human health which would be caused by an interruption of the supply or a restriction in the use of water intended for human consumption... 6. In the event of non-compliance with the parametric values or with the specifications set out in Annex I, Part C, Member States shall consider whether that non-compliance poses any risk to human health. They shall take remedial action to restore the quality of the water where that is necessary to protect human health. 7. Member States shall ensure that, where remedial action is taken, consumers are notified except where the competent authorities consider the non-compliance with the parametric value to be trivial.



Information and reporting - Article 13:

1. Member States shall take the measures necessary to ensure that adequate and up-to-date information on the quality of water intended for human consumption is available to consumers.

The Directive contains a reporting system whereby States are required to publish a report every three years on the quality of water intended for human consumption with the objective of informing consumers (Article 13 (2)). This report is examined by the Commission, which, every three years, publishes a synthesis report on this matter in the Community (Article 13(5)). Although it does not directly call upon governments to report on the implementation of the HRWS, this reporting mechanism can provide relevant information on the quality aspect of the HRWS. For more information about this keystone Directive including its planning, regulation, monitoring, and reporting functions, see: http://ec.europa.eu/environment/water/water-drink/legislation_en.html



Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy

Seven years after its entry into force, Directive 2000/60/EC repealed Directive 75/440/EEC of 16 June 1975 concerning the quality required of surface water intended for the abstraction of drinking water in the Member States. Directive 75/440/EEC concerned quality requirements which surface fresh water used in the abstraction of drinking water.



Preamble:

Whereas ... (24) Good water quality will contribute to securing the drinking water supply for the population...



Purpose - Article 1:

The purpose of this Directive is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater which:

(a) prevents further deterioration and protects and enhances the status of aquatic ecosystems and, with regard to their water needs, terrestrial ecosystems and wetlands directly depending on the aquatic ecosystems;

(b) promotes sustainable water use based on a long-term protection of available water resources;

(c) aims at enhanced protection and improvement of the aquatic environment, inter alia, through specific measures for the progressive reduction of discharges, emissions and losses of priority substances and the cessation or phasing-out of discharges, emissions and losses of the priority hazardous substances;

(d) ensures the progressive reduction of pollution of groundwater and prevents its further pollution, and

(e) contributes to mitigating the effects of floods and droughts and thereby contributes to: — the provision of the sufficient supply of good quality surface water and groundwater as needed for sustainable, balanced and equitable water use, ...



Waters used for the abstraction of drinking water - Article 7:

1. Member States shall identify, within each river basin district: - all bodies of water used for the abstraction of water intended for human consumption providing more than 10 m³ a day as an average or serving more than 50 persons, and - those bodies of water intended for such future use. Member States shall monitor, in accordance with Annex V, those bodies of which ... provide more than 100 m³ a day as an average.

2. For each body of water identified under paragraph 1, ... Member States shall ensure that under the water treatment regime applied, ... the resulting water will meet the requirements of Directive 80/778/EEC as amended by Directive 98/83/EC. 3. Member States shall ensure the necessary protection for the bodies of water identified with the aim of avoiding deterioration in their quantity in order to reduce the level of purification treatment required in the production of drinking water...



Strategies against pollution of water - Article 16:

1. The European Parliament and the Council shall adopt specific measures against pollution of water by individual pollutants or groups of pollutants presenting a significant risk to or via the aquatic environment, including such risks to waters used for the abstraction of drinking water...



Decision 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet'

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PAN-EUROPEAN REGION



Article 1:

A general Union action programme in the field of the environment for the period up to 31 December 2020 ('the 7th Environment Action programme' or '7th EAP'), as set out in the Annex, is hereby adopted.



Article 3:

1. The relevant Union institutions and the Member States are responsible for taking appropriate action, with a view to the delivery of the priority objectives set out in the 7th EAP. ... 2. Public authorities at all levels shall work with businesses and social partners, civil society and individual citizens in implementing the 7th EAP.

Article 4 further attributes the Commission the responsibility to ensure that the implementation of the 7th EAP is monitored in the context of the regular monitoring process of the Europe 2020 Strategy. This process shall be further informed by various environment-related indicators.

Before the end of the 7th EAP, the Commission is also required to submit an evaluation report, in light of which, the Commission shall, if appropriate, present a proposal for an 8th EAP, with a view to avoiding a gap between the 7th and 8th EAP.



ANNEX

A Programme for Action to 2020

28. In order to protect, conserve and enhance the Union's natural capital, the 7th EAP shall ensure that by 2020: (b) the impact of pressures on transitional, coastal and fresh waters (including surface and ground waters) is significantly reduced to achieve, maintain and enhance good status, as defined by the Water Framework Directive;

41. ... the Union and its Member States should take action to ensure that citizens have access to clean water and that water abstraction respects available renewable water resource limits, by 2020, with a view to maintaining, achieving or enhancing good water status in accordance with the Water Framework Directive, ... The biggest consuming sectors, such as energy and agriculture, should be encouraged to prioritise the most resource-efficient use of water...

43. In order to turn the Union into a resource-efficient, green and competitive low-carbon economy, the 7th EAP shall ensure that by 2020: ... (e) water stress in the Union is prevented or significantly reduced... This requires in particular: ... (ix) improving water efficiency by setting and monitoring targets at river basin on the basis of a common methodology for water efficiency targets to be developed ...

54. In order to safeguard the Union's citizens from environment-related pressures and risks to health and well-being, the 7th EAP shall ensure that by 2020: ... (c) citizens throughout the Union benefit from high standards for safe drinking and bathing water, ... This requires in particular: ... (iii) increasing efforts to implement the Water Framework Directive, ... and the Drinking Water Directive, in particular for small drinking water supplies;

65. In order to maximum the benefits of Union environment legislation by improving implementation, the 7th EAP shall ensure that by 2020: (a) the public has access to clear information showing how Union environment law is being implemented consistent with the Aarhus Convention...

106. In order to increase the Union's effectiveness in addressing international environmental and climate-related challenges, the 7th EAP shall ensure that by 2020: (a) the outcomes of Rio + 20 are fully integrated into the Union's internal and external policies and the Union is contributing effectively to global efforts to implement agreed commitments, including those under the Rio conventions...

COMPLAINT MECHANISM: COURT OF JUSTICE OF THE EUROPEAN UNION

The highest court of the European Union, the Court of Justice of the European Union interprets, enforces, and in some cases, annuls EU law. While it is primarily a dispute resolution mechanism for conflicts between national governments and EU institutions, it can, in narrow circumstances be utilized by individuals and other private actors. The court may also sanction EU institutions and ensure that the EU takes action to fulfil its various obligations.

9.2.3. THE EUROPEAN COMMISSION

The European Commission is the “executive arm” of the European Union. It acts independently from the governments that compose the EU. Amongst its functions are monitoring and ensuring treaty implementation and adherence, and proposing legislation and ensuring such laws are implemented nationally. When such obligations are not carried out by Member States, the Commission may sue in the European Court of Justice.

Additionally, the European Commission's Environmental section now accepts complaints, on the basis of which it will conduct investigations. See <http://ec.europa.eu/environment/legal/law/complaints.htm>, also providing special complaint forms to help citizens navigate the technical complaint process.

9.2.4. NON-BINDING INSTRUMENTS

EUROPEAN PARLIAMENT RESOLUTION ON THE COMMISSION COMMUNICATION ON WATER MANAGEMENT IN DEVELOPING COUNTRIES AND PRIORITIES FOR EU DEVELOPMENT COOPERATION (COM(2002) 132 – C5-0335/2002 – 2002/2179(COS)) (2003)

The European Parliament,

1. Reaffirms that access to drinking water in a sufficient quantity and of a sufficient quality is a basic human right and considers that national governments have a duty to carry out this obligation; reasonable access to water means at least 20 litres per person per day from a clean source within a radius of 1 km (Global Water Supply and Sanitation Assessment Report 2000; WHO/UNICEF);

2. Points out that on several occasions, including at Mar del Plata (1997) and Rio (1992), the declarations adopted at the end of UN conferences have established the universal right of access to drinking water in sufficient quantity and of adequate quality for basic needs and welcomes the inclusion of this right in the International Covenant on Economic, Social and Cultural Rights;

3. Emphasises that distribution of water should be looked upon as essentially a public service and hence organised so as to guarantee affordable access for all; ...

13. Invites the Commission and Member States to adopt a water-management aid policy based on the principle of universal, equitable and non-discriminatory access to safe water;

 **Explicit mention of the right to water**

14. Requires gender impact assessment for all water projects to ensure equal distribution of responsibilities and benefits among men and women, including distribution of work, paid opportunities and capacity building; ...

19. Calls on the Commission and Member States to put an end to the exporting of pesticides to the developing world that are banned within the EU, since these pesticides pollute the environment and contaminate ground water, thereby endangering public health; ...

23. Reaffirms that access to water for all without discrimination is a right, and therefore takes the view that appropriate measures must be taken to ensure that insolvent people are not deprived of such access; ...

26. Calls on the ACP countries to hold national and regional consultations involving representatives of civil society and local private players with a view to devising appropriate strategies to meet the socio-economic needs of the population;

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PAN-EUROPEAN REGION

EUROPEAN PARLIAMENT RESOLUTION ON WATER IN THE LIGHT OF THE 5TH WORLD WATER FORUM TO BE HELD IN ISTANBUL ON 16-22 MARCH 2009 (2009)

The European Parliament, ...

EXPLICIT MENTION OF THE RIGHT TO WATER AND RELATED CLAUSES

1. Declares that water is a shared resource of mankind and that access to drinking water should constitute a fundamental and universal right; calls for all necessary efforts to be made to guarantee access to water for the most deprived populations by 2015;

2. Declares that water is considered as a public good and should be under public control, irrespective of whether it is managed partly or entirely by the private sector; ...

29. Calls on the Presidency to represent the Union at the Istanbul Forum, with a mandate to:

– treat access to drink water as a vital and fundamental human right, and not merely as an economically tradable good, subject only to the rules of the market,

– advocate the approach expressed in this resolution;

30. Wishes to see the opening of negotiations, under United Nations auspices, on an international treaty recognising the right of access to drinking water; calls on the EU Member States and the Union Presidency to take political and diplomatic initiatives in this direction in the UN General Assembly and Human Rights Council;”

AFFORDABILITY AND UNIVERSALITY

4. Calls for the abandonment of systems of general water distribution subsidies, which undermine incentives for efficient water management by creating overuse, to free up funds for targeted subsidies, in particular for poor and rural populations, aimed at affordable access for all; ...

23. Hopes that cross-subsidies can be introduced to enable the most disadvantaged, in terms of access to water, to be supplied with water at an affordable price; ...

25. Calls on the Commission and the Member States to adopt a water management aid policy, based on the principle of universal, fair and non-discriminatory access to safe water; ...

MDGS

7. Calls on the Member States, despite the financial crisis, to increase their contribution to ODA in order to achieve the Millennium Development Goal relating to supplies of drinking water, for which the investment requirement amounts to an annual sum of USD 180 000 000 000;

WATER MANAGEMENT AND WATER GOVERNANCE

3. Stresses that any water management policy should also cover the protection of public health and the environment; stresses also that the World Water Forum should help in a democratic, participative and consensual manner to develop strategies conducive to a type of economic and agricultural development that can guarantee a high level of water quality; ...

6. Draws attention to the vital role of women as regards supply, management and conservation of water; ...

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13. Stresses that water resource management should be based on a decentralised, participative and integrated approach involving users and decision-makers in the definition of water policy at local level; ...

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15. Stresses the need to support local public authorities in their efforts to implement a democratic water management policy that is efficient, transparent, regulated and respectful of sustainable development objectives in order to meet the needs of communities;

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16. Calls on the Council and the Commission to recognise the vital role of local authorities in water protection and management, so as to ensure that they are given responsibility in all countries for management of the water sector and regrets the fact that the competences of EU local authorities are insufficiently valued and exploited by European co-financing programmes; ...

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18. Calls, in the context of retained public ownership and within the right legal regulatory framework, for increased efforts to engage the private sector in water distribution, in order to benefit from its capital, know-how and technology to increase access to water and sanitation facilities for all and the recognition of access to water as a fundamental right;

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9.3. OTHER REGIONAL TREATIES AND LEGAL DOCUMENTS

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9.3.1. LEGALLY BINDING INSTRUMENTS

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UNECE/WHO Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes (sometimes called “the London Protocol” or “the UNECE/WHO Protocol”) (1999)

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The Protocol on Water and Health provides an important framework for the implementation of the human rights to water and sanitation in the pan-European and pan-Asian region. The Protocol aims to protect human health and wellbeing through improving water management and preventing, controlling and reducing water-related diseases. Target setting under this Protocol helps States Parties to meet such objectives.

Article 15 foresees a mechanism for the review of compliance with the provisions of the Protocol. It requires the establishment of “multilateral arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance”. The Compliance Committee was namely established to give effect to this Article. This mechanism provides for the possibility of members of the public to make communications to the Compliance Committee on cases of alleged non-compliance with the Protocol, which the Committee then considers. More information can be found here: https://www.unece.org/env/water/pwh_bodies/cc.html.

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General provisions - Article 4:

1. The Parties shall take all appropriate measures to prevent, control and reduce water-related disease within a framework of integrated water-management systems aimed at sustainable use of water resources, ambient water quality which does not endanger human health, and protection of water ecosystems.

2. The Parties shall, in particular, take all appropriate measures for the purpose of ensuring:
 - (a) Adequate supplies of wholesome drinking water which is free from any micro-organisms, parasites and substances which, owing to their numbers or concentration, constitute a potential danger to human health. This shall include the protection of water resources which are used as sources of drinking water, treatment of water and the establishment, improvement and maintenance of collective systems;
 - (b) Adequate sanitation of a standard which sufficiently protects human health and the environment. This shall in particular be done through the establishment, improvement and maintenance of collective systems;
 - (c) Effective protection of water resources used as sources of drinking water, and their related water ecosystems, from pollution from other causes, including agriculture, industry and other discharges and emissions of hazardous substances. This shall aim at the effective reduction and elimination of discharges and emissions of substances judged to be hazardous to human health and water ecosystems; ...
4. The Parties shall base all such measures upon an assessment of any proposed measure in respect of all its implications, including the benefits, disadvantages and costs, for: (a) Human health; (b) Water resources; and (c) Sustainable development, which takes account of the differing new impacts of any proposed measure on the different environmental mediums.
5. The Parties shall take all appropriate action to create legal, administrative and economic frameworks which are stable and enabling and within which the public, private and voluntary sectors can each make its contribution to improving water management for the purpose of preventing, controlling and reducing water-related disease.
6. The Parties shall require public authorities which are considering taking action, or approving the taking by others of action, that may have a significant impact on the environment of any waters within the scope of this Protocol to take due account of any potential impact of that action on public health.

Principles and approaches - Article 5:

... (d) Water resources shall be managed so that the needs of the present generation are met without compromising the ability of future generations to meet their own needs; ... (k) Special consideration should be given to the protection of people who are particularly vulnerable to water-related disease; (l) Equitable access to water, adequate in terms both of quantity and of quality, should be provided for all members of the population, especially those who suffer a disadvantage or social exclusion; (m) As a counterpart to their rights and entitlements to water under private law and public law, natural and legal persons and institutions, whether in the public sector or the private sector, should contribute to the protection of the water environment and the conservation of water resources...

Targets and target dates - Article 6:

1. In order to achieve the objective of this Protocol, the Parties shall pursue the aims of:
 - (a) Access to drinking water for everyone;
 - (b) Provision of sanitation for everyone ...
2. For these purposes, the Parties shall each establish and publish national and/or local targets for the standards and levels of performance that need to be achieved or maintained for a high level of protection against water-related disease. These targets shall be periodically revised. In doing all this, they shall make appropriate practical and/or other provisions for public participation, within a transparent and fair framework, and shall ensure that due account is taken of the outcome of the public participation. Except where national or local circumstances make them irrelevant for preventing, controlling and reducing water-related disease, the targets shall cover, inter alia:
 - (a) The quality of the drinking water supplied, taking into account the Guidelines for drinking-water quality of the World Health Organization; ...
 - (c) The area of territory, or the population sizes or proportions, which should be served by collective systems for the supply of drinking water or where the supply of drinking water by other means should be improved;
 - (d) The area of territory, or the population sizes or proportions, which should be served by collective systems of sanitation or where sanitation by other means should be improved;
 - (e) The levels of performance to be achieved by such collective systems and by such other means of water supply and sanitation respectively;

- 1 **(f) The application of recognized good practice to the management of water supply and sanitation, including the protection of waters used as sources for drinking water;**
- 2 **(g) The occurrence of discharges of: (i) Untreated waste water; and (ii) Untreated storm water overflows from waste-water collection systems to waters within the scope of this Protocol;**
- 3 **(h) The quality of discharges of waste water from waste-water treatment installations to waters within the scope of this Protocol;**
- 4 **(i) The disposal or reuse of sewage sludge from collective systems of sanitation or other sanitation installations and the quality of waste water used for irrigation purposes, taking into account the Guidelines for the safe use of waste water and excreta in agriculture and aquaculture of the World Health Organization and the United Nations Environment Programme;**
- 5 **(j) The quality of waters which are used as sources for drinking water ...**
- 6 **(l) The identification and remediation of particularly contaminated sites which adversely affect waters within the scope of this Protocol or are likely to do so and which thus threaten to give rise to water-related disease;**
- 7 **(m) The effectiveness of systems for the management, development, protection and use of water resources, including the application of recognized good practice to the control of pollution from sources of all kinds;**
- 8 **(n) The frequency of the publication of information on the quality of the drinking water supplied and of other waters relevant to the targets in this paragraph in the intervals between the publication of information under article 7, paragraph 2.**

9.3.2. NON-BINDING INSTRUMENTS

EUROPEAN CHARTER ON ENVIRONMENT AND HEALTH (1989)

The European Charter on Environment and Health was adopted in 1989 by the Ministers of the Environment and of Health of the Member States of the European Region of WHO. The preamble informs that the participants "have accordingly agreed upon the principles and strategies laid down therein as a firm commitment to action. In view of its environmental mandate, the Commission of the European Communities [European Commission] was specially invited to participate and, acting on behalf of the Community, also adopted the Charter as a guideline for future action by the Community in areas which lie within Community competence."

Entitlements and responsibilities

1. Every individual is entitled to:

- an environment conducive to the highest attainable level of health and wellbeing;
- information and consultation on the state of the environment, and on plans, decisions and activities likely to affect both the environment and health;
- participation in the decision-making process.

4. Every public authority and agency at different levels, in its daily work, should cooperate with other sectors in order to resolve problems of the environment and health.

5. Every government and public authority has the responsibility to protect the environment and to promote human health within the area under its jurisdiction, and to ensure that activities under its jurisdiction or control do not cause damage to human health in other states. Furthermore, each shares the common responsibility for safeguarding the global environment.

6. Every public and private body should assess its activities and carry them out in such a way as to protect people's health from harmful effects related to the physical, chemical, biological, microbiological and social environments. Each of these bodies should be accountable for its actions.

Principles for public policy

- ... 3. The health of every individual, especially those in vulnerable and high-risk groups, must be protected. Special attention should be paid to disadvantaged groups.*
- 5. New policies, technologies and developments should be introduced with prudence and not before appropriate prior assessment of the potential environmental and health impact. There should be a responsibility to show that they are not harmful to health or the environment.*
- 6. The health of individuals and communities should take clear precedence over considerations of economy and trade.*
- 7. All aspects of socioeconomic development that relate to the impact of the environment on health and wellbeing must be considered. ...*
- 9. Governments, public authorities and private bodies should aim at both preventing and reducing adverse effects caused by potentially hazardous agents and degraded urban and rural environments. ...*
- 11. The principle should be applied whereby every public and private body that causes or may cause damage to the environment is made financially responsible (the polluter pays principle).*
- 12. Criteria and procedures to quantify, monitor and evaluate environmental and health damage should be further developed and implemented.*

Priorities

- 1. Governments and other public authorities, ... the European Community and other intergovernmental organizations, as appropriate, should pay particular attention to the following urgent issues of the environment and health at local, regional, national and international levels and to take action on them:*
 - safe and adequate drinking-water supplies on the basis of the WHO Guidelines for drinking-water quality together with hygienic waste disposal for all urban and rural communities;*
 - water quality in relation to surface, ground, coastal and recreational waters; ...*

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ACRONYMS AND ABBREVIATIONS

ACERWC	African Committee of Experts on the Rights and Welfare of the Child
ACHPR	African Charter on Human and Peoples' Rights
ACRWC	African Charter on the Rights and Welfare of the Child
AICHR	ASEAN Intergovernmental Commission on Human Rights
AMCOW	African Ministers Council on Water
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
CBD	Convention on Biological Diversity
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDDIS	Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities
CESCR	Committee on Economic, Social and Cultural Rights
COE	Council of Europe
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil society organisation
ESCR	Economic, social and cultural rights
EU	European Union
GANHRI	Global Alliance of National Human Rights Institutions
GDP	Gross domestic product
HRC	Human Rights Council
HRWS	Human rights to water and sanitation
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICC (NHRIs)	International Coordination Committee for National Human Rights Institutions
ICCPR	International Covenant on Civil and Political Rights
IDPs	Internally displaced persons
IEL	International environmental law
IHL	International humanitarian law
ILO	International Labour Organization
MDGs	Millennium Development Goals
MLC 2006	ILO Marine Labour Convention
NGO	Non-governmental organisation
NHRI	National human rights institution
OAS	Organization of American States
PIF	Pacific Islands Forum
SAARC	South Asian Association for Regional Cooperation
SDGs	Sustainable Development Goals
SPREP	Secretariat of the Pacific Regional Environmental Programme
UN	United Nations
UNECE	United Nations Economic Commission for Europe
UNGA	United Nations General Assembly
UNICEF	United Nations Children's Fund
UPR	Universal Periodic Review
WASH	Water, sanitation and hygiene
WHO	World Health Organization

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This handbook was prepared to inform on existing water and sanitation-related international and regional frameworks to help contribute to the realisation of the human rights to water and sanitation. It compiles and annotates extracts from international law and mechanisms, thereby demonstrating how the various frameworks contribute to the realisation of those rights. This handbook targets civil society, parliamentarians, government officials and other actors to help a better understanding of the broader context of the rights to water and sanitation with the aim of strengthening their work in these areas at national level.

WaterLex is a non-governmental organisation based in Geneva, Switzerland. It is a UN-Water partner with a Special Consultative Status with the United Nations Economic and Social Council. WaterLex's mission is to secure the human rights to water and sanitation through law and policy reform.



THE HUMAN RIGHTS TO WATER AND SANITATION

AN ANNOTATED SELECTION OF INTERNATIONAL
AND REGIONAL LAW AND MECHANISMS

WaterLex – International Secretariat

7 bis avenue de la Paix
1202 Geneva
Switzerland
+41 22 900 16 64
info@waterlex.org
www.waterlex.org

