

# The human right to safe drinking water and sanitation in law and policy – a sourcebook

A joint publication by WASH United, Freshwater Action Network and WaterLex



# **The human right to safe drinking water and sanitation in law and policy – a sourcebook**

*Laws and policies guaranteeing the human right to drinking water and sanitation at the national, regional and international levels.*

## **The human right to safe drinking water and sanitation in law and policy - a sourcebook**

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## Preface

### *by Catarina de Albuquerque, UN Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation*

One in seven people across the planet do not have access to safe drinking water to satisfy their most basic human needs, such as drinking, preparation of food and personal hygiene. The situation is even worse with regard to sanitation. 2.6 billion people – almost 40 % of the world population – don't have access to a safe and hygienic toilet to shit in privacy and with dignity, forcing them to use plastic bags, buckets, roadside ditches and other open spaces in and around their communities instead.



The consequences for human health and dignity are severe. Diarrhoeal diseases caused by unsafe water, lack of toilets and poor hygiene are now the biggest killer of children under the age of five in Africa, killing more children than HIV/AIDS, malaria and measles combined. The economic impact of this crisis is immense, too. According to a recent World Bank report, the consequences of inadequate sanitation and poor hygiene such as increased health costs, productivity losses and reduced tourism cost India USD 53.8 billion - or 6.4 % of GDP - every year.

This crisis is entirely avoidable. The world has the technologies, the financial resources, as well as the water resources to make safe drinking water, sanitation and hygiene for all people a reality. What has been lacking is the political will to make access to safe drinking water and sanitation for all people – including the poorest and most marginalized – a clear political and developmental priority.

However, the full recognition of the right to safe drinking water and sanitation by the United Nations General Assembly and the United Nations Human Rights Council in 2010 has fundamentally changed the relationship between the State and deprived individuals, particularly through the following key features of the rights:

- **Accountability:** the question of access to safe drinking water and sanitation is transformed from a question of charity or welfare to a legal entitlement. People - often treated as objects of development - become rights holders, while governments become duty bearers subject to binding obligations grounded on international human rights law. Compliance of States with their obligations under international human rights law is subject to scrutiny by international monitoring mechanisms.
- **Strict priority for people without basic access to safe drinking water and sanitation:** the rights to safe drinking water and sanitation oblige States to use available public resources in a way that strictly prioritizes access for un-served and under-served populations.

- **Non-discrimination and attention to vulnerable and marginalized groups:** the rights to safe drinking water and sanitation prohibit discrimination and require that all groups in society are given equal treatment according to their needs, which may entail special attention to vulnerable and marginalized groups.
- **Participation and access to information:** the rights to water and sanitation require opportunities for active, free and meaningful participation of all stakeholders in decision-making processes, as well as full access to relevant information.

This sourcebook forcefully underlines the broad recognition of the rights to safe drinking water and sanitation at international and national levels and illustrates how the different substantive components of the rights - availability, accessibility, affordability, quality, etc - have been translated into legal and policy tools that allow people to hold their governments to account, both through judicial and non-judicial channels.

This sourcebook will be an invaluable tool for everyone working to realise the rights to safe drinking water and sanitation, ranging from law and policy makers to human rights lawyers and activists lobbying their governments. It provides a solid foundation to explore the legal basis of the rights to safe drinking water and sanitation, and will inform users' own work in turning the rights to water and sanitation from dreams into day-to-day reality for each and every person, everywhere.

**Catarina de Albuquerque**

A handwritten signature in black ink, reading "Catarina de Albuquerque". The signature is written in a cursive, flowing style with a horizontal line at the end.

## Introduction

Globally, one in seven people lack access to even minimum supplies of safe drinking water to fulfil their most basic personal and domestic needs. Hundreds of millions are left with no choice but walk for hours to collect water from unsafe sources such as unprotected wells, rivers or lakes also used by animals. The situation is even worse with regard to sanitation. Approximately 2.6 billion people – or almost 40% of the world population - have no access to sanitation facilities that ensure health, physical safety, privacy and dignity. For want of a toilet, hundreds of millions of people have no option but to defecate in buckets, plastic bags and public places in and around their communities.

The consequences of this crisis are severe. Every year, 1.4 million children under the age of five die from water and sanitation related diseases. According to recent research, preventable diarrhoea caused by dirty water, lack of toilets and poor hygiene is the biggest killer of children in Africa, taking more young lives than malaria, measles and HIV/AIDS combined. An estimated 443 million school days are lost every year because teachers and pupils are sick with preventable disease. Due to a lack of safe and private sanitation facilities, millions of girls stay out of school during menstruation or drop out of school completely when reaching puberty.

Hundreds of millions of people around the globe are trapped in a vicious circle of disease, lost opportunities and poverty. Ensuring access to safe drinking water and sanitation is a first and fundamental step to help lift people out of poverty. Access to safe water and sanitation reduces disease and school absenteeism. Women have time for income-generating activities instead of walking for water or attending to those suffering from water and sanitation related disease.

In fact, the World Health Organization (WHO) estimates that investments in improved water and sanitation result in US\$ 5.5-US\$ 6.6 in economic returns for every US\$ 1 invested. According to recent research by the World Bank's Water and Sanitation Program, the consequences of inadequate sanitation (including productivity losses, lost tourism, etc) cost India approximately USD 53.8 billion, or 6.4 % of GDP, every year. In other words, for countries to take all necessary steps to achieve the full realisation the right to safe drinking water and sanitation as expeditiously as possible is not only a matter of compliance with binding obligations under international human rights law, but also a matter of economic common sense.

### **A resource to catalyse legal and policy reform**

This sourcebook provides a broad, yet by no means exhaustive, overview over the status of recognition of the right to safe drinking water and sanitation in international and national law and policy.

Legal and policy standards form the basis for international human rights monitoring mechanisms, national courts and ultimately the people themselves to hold governments to account for respecting, protecting and – ultimately – fulfilling their human right to safe drinking water and sanitation. It is the recognition of the right to safe drinking water and sanitation in legal and policy standards that turns the question of safe drinking water and sanitation for all people from a question of moral or political priority into a legal entitlement, thereby empowering people to claim their rights and catalysing social change.

This publication will enable law and policy makers, service regulators and civil society to learn about how the right has been recognised and elaborated at the different levels and draw inspiration for their own efforts to turn the right to safe drinking water and sanitation into reality for all people, everywhere.

# Overview of the right to safe drinking water and sanitation

## Recognition of the right to safe drinking water and sanitation

After almost a decade of sustained advocacy on the issue, on 3 August 2010, the General Assembly of the United Nations through Resolution A/RES/64/292 formally 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.”

On 6 October 2010, the Human Rights Council, the highest ranking Human Rights body in the United Nations system, adopted by consensus resolution A/HRC/RES/15/9, which affirmed the prior recognition of the right to safe drinking water and sanitation by the General Assembly. In addition, resolution A/HRC/RES/15/9 also clarified the legal basis of the right, stipulating that “[t]he 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.” This means that the right to safe drinking water and sanitation is contained in legally binding human rights treaties and is therefore legally binding.

Numerous earlier human rights treaties, resolutions, declarations and other international instruments recognized the right to safe drinking water and sanitation. Several human rights treaties contain *explicit* references to the human right to safe drinking water and sanitation. These include Article 14.2 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), Article 24.2 of the Convention on the Rights of the Child (CRC, 1989), and Article 28 of the Convention on the Rights of Persons with Disabilities (CRPD, 2006).

Another instrument that still is a key document for understanding the right to safe drinking water and sanitation is General Comment No. 15 issued by the United Nations Committee on Economic, Social and Cultural Rights in 2002. General Comment No. 15 was the first document to authoritatively define the scope and content of the human right to water, as well as corresponding State obligations.

International and regional instruments reflecting the right to safe drinking water and sanitation are contained in Part 1 of this sourcebook.



## Realization of the right to safe drinking water and sanitation

States bound by the *human right to safe drinking water and sanitation* are under the obligation to move *as expeditiously* and *effectively* as possible towards the full realization of the right to safe drinking water and sanitation, thereby using the maximum of their available resources.

### Obligation to *respect, protect* and *fulfil*

As explained in General Comment No. 15, States have an obligation to *respect, protect* and *fulfil* the right to water.

**Respect** The obligation to *respect* requires States to refrain from interfering *directly* or *indirectly* with the enjoyment of the right to safe drinking water and sanitation.<sup>1</sup> This means that States have to ensure that all their activities, from all its bodies and institutions, do not interfere with an individual's access to water. For example, this could apply to the unlawful pollution of water due to waste from State owned facilities.<sup>2</sup>

**Protect** The obligation to *protect* the right to safe drinking water and sanitation means that States must ensure that the existing access people have to water and sanitation is not compromised by third parties (including individuals, groups, corporations and other entities under the jurisdiction of the State). Governments must do this by enacting legislation that regulates actions by third parties in relation to water and sanitation, including measures that penalise violations of the law. For example, when the distribution of water or the provision of sanitation services is arranged by the private sector, the State is obliged to regulate the sector and establish independent monitoring, ensure public participation and accountability. Mechanisms must be in place to ensure that private operators may not deprive individuals of access to water and sanitation altogether.

**Fulfil** Finally, States have an obligation to *fulfil* the right to safe drinking water and sanitation. In essence, the duty to fulfil requires that States take active steps towards the full enjoyment of the right to safe drinking water and sanitation as soon as possible. An example is to expand networks to areas which are not served yet, or by developing tariff structures which ensure water and sanitation services are affordable to everyone.

The obligation to fulfil can be broken up as the obligations to facilitate, promote and provide:

- The obligation to *facilitate* requires governments to take positive measures to assist individuals and communities to enjoy this right.
- The obligation to *promote* requires the government to take steps to educate people concerning the hygienic use of water, protection of water sources and methods to

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<sup>1</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p. 9, par. 21

<sup>2</sup> Ibid

minimize water wastage and contamination.

- Governments are also required to *provide* the right when an individual or groups are unable, for reasons beyond their control, to realize the right to safe drinking water and sanitation themselves by means at their disposal.

*Given resource constraints, governments will not be able to ensure that all people have access to water and sanitation immediately. Therefore, under the obligation to fulfil, governments have to show that they are taking all possible steps to the maximum of available resources to achieve basic access for all people as quickly as possible. In doing so, governments must strictly prioritise ensuring access for unserved or underserved segments of the population. Using limited public resources to improve adequate access for some parts of the population while other parts of the population remain without basic access would constitute a violation of State obligations under the right to safe drinking water and sanitation.*

Through its extensive survey of legal and policy standards, this publication forcefully demonstrates how widely the right to safe drinking water and sanitation is recognized at domestic, regional and international levels. We hope that this sourcebook will help users to analyze whether national laws and policies are in compliance with international and regional standards. Comparative analysis can furthermore give important insights into practicable ways of framing the right to safe drinking water and sanitation at the national level in line with international legal obligations.

# About the sourcebook

## Scope of the document

*This publication is an extensive overview of laws and policies guaranteeing the human right to safe drinking water and sanitation at the national, regional and international levels. It includes sources from 97 countries<sup>3</sup>.*

Keeping this publication to a reasonable size, but at the same time providing for a representative range of laws and policies addressing all the various normative elements of the right to safe drinking water and sanitation proved to be a constant struggle. This sourcebook provides for a comprehensive overview of the international, regional and national sources that we found best fitting with the normative content of the human right to safe drinking water and sanitation, but it is nowhere near exhaustive.

Furthermore, this publication does not aim to explain the legal value and context of each source or assess the implementation of a certain law or policy. Further research will be required to fully understand the actual impact of the laws and policies contained in this sourcebook as regards actual impact towards the realization of the right to safe drinking water and sanitation on the ground.

Our research did not extend to all national legislations and policies. Due to the sheer enormity of the task as well as language issues and non-availability of law and policy documents, we were not able to identify all possible relevant sources in the countries we did analyze. Laws that we have included may have been amended without us being aware of it. We hope to make this sourcebook a living instrument, and therefore we welcome any additions or changes which we can implement immediately in the online version of this publication at [www.righttowater.info/RTWSsourcebook](http://www.righttowater.info/RTWSsourcebook) and incorporate in any future versions of this sourcebook. Please contact [laura.vandelande@wash-united.org](mailto:laura.vandelande@wash-united.org) with any related information you may have.

## Potential uses of this publication

Through an extensive number of legal and policy standards, this publication demonstrates that the human right to safe drinking water and sanitation is widely recognized at the domestic as well as regional and international levels. By

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<sup>3</sup> The research into domestic laws, policies and jurisprudence included nearly every country in the Americas and in Africa, most of Western Europe, the former CIS countries, as well as South Asia and parts of the Pacific region. Regions that have been less well researched (due to limited availability of relevant sources and language barriers) are Eastern Europe, the Middle East, Central Asia and South-East Asia.

recognizing the right to safe drinking water and sanitation, legislation and policies must be in accordance with the content of this human right, as laid down in international documents. The objective of this sourcebook is to give people access to an extensive list of sources relating to the right to safe drinking water and sanitation in an accessible format for developing and reforming legislation and policy at the national level.

**This resource can be used to inform both reforms to existing standards as well the creation of new laws and policies.**

It provides a guide to **how** other countries have **phrased** laws and policies that interpret international law

The international section can be used as a reference to **cross check that any forthcoming or existing laws and policies comply** with international standards

The sources can also be used to identify a range of laws for **comparative analysis** to evaluate existing or proposed legal standards and provisions

It can help to **identify gaps** between national laws and policies governing access to safe drinking water and sanitation and international law

While laws and policies must always be suited to the national context, comparative analysis can give important insights into practicable ways of framing the right to safe drinking water and sanitation at the national level in line with international legal obligations.

This compilation should therefore be used as a collection of reference materials that can be drawn on in the process of developing or reviewing national legislation and policy. By comparing international, regional and national level sources, the sourcebook will help users analyze whether national laws and policies are in compliance with international and regional obligations. In particular the international reference material will also be useful to determine whether the implementation in practice of national laws and policies is in line with international obligations.

This publication can also be used to identify gaps between national laws and policies governing access to safe drinking water and sanitation and international law. This evidence can be used to demand change and ultimately improve the lives of people on the ground.

Finally, it can help to ensure that international agreements that deal with other issues related to water including environmental and economic issues are designed and implemented in a manner consistent with the right to safe drinking water and sanitation.

### **Who should use this publication**

This publication can be used in many different ways by a variety of stakeholders and institutions, including: law and policy makers, service regulators and civil society (individuals, communities, non-governmental organizations, academics and human rights lawyers).

As a tool to support ***legal and policy reform***, the publication can be of particular use to:

***Legal drafters*** can use the sources as indicators for comparative law. For instance, when deciding on how to better adapt international human rights standards to the national framework, they can check Kenya's reforms in their water laws and policies, or see how Ecuador included the right to safe drinking water and sanitation in its constitution, in order to analyse whether these interpretations would be relevant and successful in their own contexts.

***Civil society*** can advocate for improved legal and policy standards using international law and examples of legislation in other countries. For instance, they can get familiar with legal provisions recognising the right to safe drinking water and sanitation included in Uruguay's constitution through a popular referendum, and on that basis establish a strategy for improving national laws and policies by holding their own governments to account.

***Policy makers*** in charge of implementing the right to safe drinking water and sanitation can use the information as a tool for developing improved policies in a similar way to how legal drafters would find the information useful.

***International organizations*** that offer legal advice to governments can use this guide to formulate recommendations, by referring to reforms adopted in countries with contextual similarities.

***Researchers and academics*** might use this guide as a basis to carry out detailed research on the extent to which existing laws and policies protect the right to safe drinking water and sanitation, with the aim of assessing potential improvements to such standards.

To support advocacy promoting compliance to existing ***laws and policies***, the publication can be of use to:

***Human rights practitioners, civil society, communities and individuals*** can use this guide as a basis to press governments, private companies, international institutions and others to respect, protect and fulfil the right to safe drinking water and sanitation, and thereby meet their obligations under international law.

***Human rights advocates*** can use this guide in litigating for the right to safe drinking water and sanitation, particularly where a State's courts directly apply international standards, or use them to interpret national law. They can also use this guide to submit complaints before United Nations or regional human rights bodies to address violations.

***Human rights organizations*** can use this guide to raise people's awareness of their rights and to inform governments, policy-makers and politicians of their obligations.

***Governments and civil society*** can use the information for preparing reports to relevant United Nations or other human rights bodies tasked with monitoring implementation of a State's international human rights obligations.

***Judges and arbitrators of international mechanisms*** can also use sources contained in this guide, including national standards, for interpreting international agreements and treaties.

# The structure of the sourcebook

This publication consists of three parts:

## Part 1

The first part contains an overview of the right to safe drinking water and sanitation at the *international* level including treaties, declarations and resolutions.

In this section, an overview of findings of United Nations Human Rights Treaty Monitoring Bodies is provided, that is, the *United Nations Committee on Economic, Social and Cultural Rights*, the *United Nations Committee on the Elimination of Racial Discrimination*, and the *United Nations Committee on the Rights of the Child*. These sources are included to clarify the interpretation of the human right to safe drinking water and sanitation at the international level, which can be helpful in order to understand how this right should be interpreted at the national level.

## Part 2

The second part of the sourcebook focuses on the right to safe drinking water and sanitation in regional treaties, declarations and resolutions including: *Africa, the Americas, Europe, the Middle East, and Asia*.

## Part 3

The third part encloses existing *national* sources on the right to safe drinking water and sanitation. Here we formed an overview of national constitutions, laws and policies reflecting the right to safe drinking water and sanitation. Although not exhaustive, we did include a representative range of different countries, classified by region.

Each section is then sub-divided into categories:

- (a) *Recognition of right to safe drinking water and sanitation*
- (b) *Non-discrimination and attention to vulnerable and marginalized groups*
- (c) *Participation and access to information*
- (d) *Accountability*
- (e) *Accessibility of water and sanitation*
- (f) *Affordability of water and sanitation*
- (g) *Availability of water and sanitation and allocation*
- (h) *Water quality and hygiene*

These categories are further explained in part three of this introduction, *The categories*.

In order to be consistent, the categories will always keep their original character/lettering. For example, sub-category *1.2.c: Participation and access to information* may be followed by sub-category *1.2.e: accessibility of water and sanitation*, skipping sub-category *1.2.d: Accountability* if there is no information on this sub-category in that chapter.



## Guide to categorization

The sources are arranged in categories, based on key aspects of how the human right to safe drinking water and sanitation should be implemented as stipulated in a number of international documents and guidelines.

They are arranged in the same order in each chapter and include:

- (a) Recognition of the right to safe drinking water and sanitation
- (b) Non-discrimination and attention to vulnerable and marginalized groups
- (c) Participation and access to information
- (d) Accountability
- (e) Physical accessibility of water and sanitation
- (f) Affordability of water and sanitation
- (g) Water availability and allocation
- (h) Water quality and hygiene

The categories have been drawn from two documents in particular, General Comment No. 15 and the Sub-Commission Guidelines.

### General Comment No. 15

In 2002, long before the resolution on the human right to safe drinking water and sanitation in 2010, General Comment No. 15 provided guidance to States on how to interpret the right to safe drinking water and sanitation under two articles of the ICESCR – Article 11 (the right to an adequate standard of living) and Article 12 (the right to health).

It is still a key document in explaining the *content* of the human right to safe drinking water and sanitation, the *realization* thereof and setting the *standards* and *guidelines* for States to realize their *obligations* in respect to the human right to safe drinking water and sanitation.

General Comment No. 15 defines the right to water as the right of everyone to **sufficient, safe, acceptable, physically accessible** and **affordable** water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related diseases and to provide for consumption, cooking, personal and domestic hygienic requirements. While there are a number of other important uses for water such as for the production of food and use within cultural practices, the human right to water gives priority to the allocation of water for personal and domestic uses.

Read the full text in Box A below.

### **Sub-Commission Guidelines**

In 2005, the Sub-Commission on the Promotion and Protection of Human Rights issued guidelines to assist government policymakers, international agencies and members of civil society working in the water and sanitation sector to implement the right to safe drinking water and sanitation. This document, which we will refer to as the Sub-Commission Guidelines, detailed similar themes to General Comment No. 15, including:

- Preventing discrimination
- Availability and equitable distribution of water
- Improving access
- Affordability
- Water quality
- Participatory rights

Each sub-category in this publication reflects the procedural and normative content of the human right to safe drinking water and sanitation. This way, all sources contained can easily be recognized and understood in how they reflect a particular characteristic of the human right to safe drinking water and sanitation.

#### **Box A: General Comment No. 15**

##### **II. NORMATIVE CONTENT OF THE RIGHT TO WATER**

[...]

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.[12] These uses ordinarily include drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene.[13] The quantity of water available for each person should correspond to World Health Organization (WHO) guidelines.[14] Some individuals and groups may also require additional water due to health, climate, and work conditions;

(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.[15] 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.[16] 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: accessibility includes the right to seek, receive and impart information concerning water issues.

12 “Continuous” means that the regularity of the water supply is sufficient for personal and domestic uses.

13 In this context, “drinking” means water for consumption through beverages and foodstuffs. “Personal sanitation” means disposal of human excreta. Water is necessary for personal sanitation where water-based means are adopted. “Food preparation” includes food hygiene and preparation of food stuffs, whether water is incorporated into, or comes into contact with, food. “Personal and household hygiene” means personal cleanliness and hygiene of the household environment.

14 See J. Bartram and G. Howard, “Domestic water quantity, service level and health: what should be the goal for water and health sectors”, WHO, 2002. See also P.H. Gleick, (1996) “Basic water requirements for human activities: meeting basic needs”, Water International, 21, pp. 83-92.

15 The Committee refers States parties to WHO, Guidelines for drinking-water quality, 2nd edition, vols. 1-3 (Geneva, 1993) that are “intended to be used as a basis for the development of national standards that, if properly implemented, will ensure the safety of drinking water supplies through the elimination of, or reduction to a minimum concentration, of constituents of water that are known to be hazardous to health.”

16 See also General Comment No. 4 (1991), para. 8 (b), General Comment No. 13 (1999) para. 6 (a) and General Comment No. 14 (2000) paras. 8 (a) and (b). Household includes a permanent or semi-permanent dwelling, or a temporary halting site.

## Sub-categories

### *(a) Recognition of the 'right to safe drinking water and sanitation'*

In this document, *recognition of the right to safe drinking water and sanitation* indicates whether laws and policies refer to the right to safe drinking water and sanitation *explicitly* or *implicitly*.

It consists of two different sub-sections:

#### **1. Explicit recognition:**

Sources are listed as explicit when Governments have adopted a specific, textual reference to a person's right to safe drinking water and sanitation in the text of a law, policy or strategy.

For example, Article 43 of the constitution of Kenya 2010 states that, "*Every person has the right [...] to reasonable standards of sanitation [...] to clean and safe water in adequate quantities.*"<sup>4</sup>

#### **2. Implicit recognition**

Sources are listed as implicit when Governments have adopted an indirect reference to the right to safe drinking water and sanitation in the text of a law, policy or strategy.

For example, the California Public Utilities Code 1993 states in Section 739.8 that, "*Access to an adequate supply of healthful water is a basic necessity of human life, and shall be made available to all residents of California at an affordable cost.* [...]"<sup>5</sup>

Sources will only be included under implicit recognition if they contain an explicit textual reference to water/sanitation/public services, but do not refer to water and sanitation as a *right*, even if it is contained within a reference to another human right.

For example, in India the right to water is jurisprudentially protected as courts recognize it as an element of the *right to life*. This judicial protection of the right to water will not be categorized as 'implicit recognition' of the right to safe drinking water and sanitation in this case because the source only mentions the right to life and therefore lacks a *textual* reference to the right to safe drinking water and sanitation.

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<sup>4</sup> Constitution of Kenya 2010, Available at:

[http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Constitution\\_of\\_Kenya\\_2010.pdf](http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Constitution_of_Kenya_2010.pdf) (Last visited 14 April 2011)

<sup>5</sup> California Public Utilities Code, 1993, Available at: [http://www.legaltips.org/california/california\\_public\\_utilities\\_code/](http://www.legaltips.org/california/california_public_utilities_code/). (Last visited 19 April 2011)

## ***(b) Non-discrimination and attention to vulnerable and marginalized groups***

Sources listed under this category relate to addressing the needs of vulnerable and marginalized groups, a key issue detailed in both General Comment No. 15 and the Sub-Commission Guidelines.

General Comment No. 15 states that, “*States parties should take steps to remove de facto discrimination on prohibited grounds, where individuals and groups are deprived of the means or entitlements necessary for achieving the right to water. States parties should ensure that the allocation of water resources, and investments in water, facilitates access to water for all members of society.*”<sup>6</sup>

International human rights law therefore demands that every part of the population has equitable access to water services and facilities, and that there are no disguised preferences by investment in certain projects only favouring a particular part of the population.

General Comment No. 15 clarifies that – just like all other human rights – the principle of non-discrimination applies to the right to water and prohibits any discrimination on the grounds of, “*race, color, 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.*”<sup>7</sup> The adoption of ‘other status’ implies the inclusion of any other grounds that lead to unequal access to the right.

General Comment No. 15 further states, “*Whereas the right to water applies to everyone, States parties should give special attention to those individuals and groups who have traditionally faced difficulties in exercising this right.*”<sup>8</sup>

Therefore, the principle of non-discrimination may require differential treatment to ensure that people who have so far had the least access to water are prioritized, whereas others that have access to a higher level of service will have to wait before further improvements can be made. In these cases, differential treatment of vulnerable and marginalized groups would be a means to establish equity, not to prioritize certain groups as such.

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<sup>6</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p. 7 par. 14

<sup>7</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p. 6, par. 13

<sup>8</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p. 7 par. 16

The Sub-Commission Guidelines stipulate that, “*States should ensure that no persons or public or private organizations engage in discriminatory practices which limit access to water and sanitation on the grounds of sex, age, ethnic origin, language, religion, political or other opinion, national or social origin, disability, health status or other status.*”<sup>9</sup>

States therefore have a duty to guarantee non-discrimination by enacting laws and policies that prevent, combat and remedy discrimination, including at the hands of private organizations.

In order to ensure compliance with the obligation to prevent discrimination – and other duties – States should establish effective judicial or other appropriate remedy mechanisms with authority to address any violations of the right that may occur.<sup>10</sup>

Lastly, governments should review public budgets and investments, as they “*should not disproportionately favour expensive water supply services and facilities that are often accessible only to a small, privileged fraction of the population[...]*”<sup>11</sup>

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<sup>9</sup> UN Sub-Commission Guidelines, Report of the Special Rapporteur, El Hadji Guissé, E/CN.4/Sub.2/2005/25, 11 July 2005, p. 7, section 3.1

<sup>10</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p. 17, par.55

<sup>11</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p. 7, par. 14

**Box B: A note on language: vulnerable and marginalized groups**

The terms 'vulnerable' and 'marginalized' are often understood as being interchangeable. Yet they have quite different meanings.

The term vulnerable means that a person is more at risk than others to suffer harm from a human rights infringement due to characteristics inherent in that person. Women are often vulnerable, due to different stages of life e.g. pregnancy. In the case of the human right to safe drinking water and sanitation, for example, children are particularly vulnerable because they run a higher risk of serious disease when exposed to unclean water and sanitation to adults. Other examples of vulnerable groups with respect to water and sanitation include the elderly, the disabled or the sick.

The term marginalized is used to refer to the social process of being confined to a lower standing of society. Individuals or groups that are excluded from society often suffer from material deprivation, and are excluded from information, services, programmes, and policies. Marginalized groups may include inhabitants of deprived areas, women, refugees and internally displaced persons as they are often excluded from decision making processes and therefore unable to access water and sanitation services.

Sometimes, vulnerability and marginalization fall together. However, it is important to bear the distinction in mind, as mechanisms to address the effects need to be different: vulnerable groups need special measures to ensure that they do not suffer as a result of their vulnerability (e.g. special care needs to be taken regarding the quality of water for children, elderly and ill persons). Addressing the needs of marginalized groups in turn requires measures that will overcome the marginalization of the group (for example, introducing mechanisms that enable communities in deprived areas to participate in decision making and to access water and sanitation services).

### ***(c) Participation and access to information***

Sources listed under *Participation and access to information* stipulate the importance of involving communities and providing adequate information about services and rights. As with all human rights, the right to access information and to participate in decision-making processes is a central aspect of realizing the right to safe drinking water and sanitation.

#### **Participation**

Countless examples exist in the water and sanitation sector and in other development sectors where inadequate participation of project beneficiaries has led to the implementation of projects that do not fulfil people's needs and risk being abandoned altogether. Involvement of local communities is crucial for identifying the most appropriate investments and solutions on the ground.

In order to establish effective strategies and policies, a thorough understanding of the actual condition of water and sanitation is a prerequisite. An accurate assessment of the current situation, data and water sources available requires the involvement of communities.

On participation, the Sub-Commission Guidelines state:

*"Everyone has the right to participate in decision-making processes that affect their right to water and sanitation."*

And:

*"Communities have the right to determine what type of water and sanitation services they require and how those services should be managed and, where possible, to choose and manage their own services with assistance from the State."<sup>12</sup>*

#### **Access to information**

To make participation possible, the first step is always to ensure that there exists accessible public information on current and future government policies. This information must include the content of those policies, actions plans, budgets and planned tariffs. All changes to existing policies need to be announced and made public.

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<sup>12</sup> UN Sub-Commission Guidelines, Report of the Special Rapporteur, El Hadji Guissé, E/CN.4/Sub.2/2005/25, 11 July 2005, p.9 section 8



General Comment No. 15 states that *“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.”*<sup>13</sup>

On the right to access to information, the Sub-Commission Guidelines state:

*“Everyone should be given equal access to full and transparent information concerning water, sanitation and the environment held by public authorities or third parties.”*<sup>14</sup> This must be laid down in national laws, including provisions on the obligations of governments as well as procedures to secure adequate participation.

Factors that influence people’s ability to access information need to be taken into account including illiteracy and poverty. People may not understand the language or the information itself. Information may therefore need to be published in different languages and through multiple media (written, spoken) to ensure that everybody is able to access public information as equitably as possible.

### **Progressive steps to providing full access to information**

In order to fulfil the human right to safe drinking water and sanitation, extra care needs to be taken to ensure participation and information sharing. Institutional and budgetary constraints may impede governments’ ability to fully implement this aspect of the right to safe drinking water and sanitation, especially in developing countries. However, all governments should take steps to progressively work towards full access to information and participation, as clarified in Article 2 (1) of the ICESCR. Furthermore, a minimum of access to information and participation should always be practiced to ensure that laws and policies address the most pressing needs of the population.

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<sup>13</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p. 15, par. 48

<sup>14</sup> Ibid.

#### **(d) Accountability**

All States have to ensure that providers of water and sanitation, be they public or private, comply with service delivery standards that are consistent with the human right to safe drinking water and sanitation. Sources listed under this category relate to this requirement.

Accountability implies that States should ensure that policies and laws consistent with the international human right to safe drinking water and sanitation are not only created but also implemented and effectively enforced. A State needs to ensure that it is bound to those laws and policies protecting the right to safe drinking water and sanitation by ensuring appropriate consequences when those laws and policies are neglected.

#### **Complaint mechanisms**

An effective complaint mechanism is key to the just implementation of the human right to safe drinking water and sanitation. For providers, it is an effective tool to ensure compliance with delivery standards. However, full accountability can only be reached when there are, next to the monitoring by the service regulators, independent monitoring bodies that observe the performances of public and private service providers. Those bodies, like ombudsman offices, human rights commissions or the judiciary, can review the implementation of existing legislation, policies and strategies and check whether or not they are supporting the right to safe drinking water and sanitation. They can also judge whether submitted complaints are genuine and ensure adequate redress for those whose rights have been violated.

These bodies are different from each other and each has a distinct role. For example, commissions and ombudsman institutions should be able to carry out detailed and long-term reviews of governmental decisions and policies. They can furthermore handle complaints quicker and cheaper than, for example, the judiciary. On the other hand, the judiciary is the most appropriate entity to handle individual complaints and to award remedies where rights have been violated. It can also, at the level of the constitutional court system, demand revision of programmes, create substantial change and impose penalties. What all bodies have in common is that they are able to create valuable recommendations for governments and institutions, and therefore fulfil an educational role towards government and society.

General Comment No.15 indicates that all States have to ensure that individuals whose right to water has been violated have access to effective and independent judicial or other appropriate remedies, at both national and international levels.<sup>15</sup>

The Committee furthermore states that, “*all victims of violations of the right to water should be entitled to adequate reparation, including restitution, compensation, satisfaction or guarantees of non-repetition*” when violations of the right do occur. And, “*national ombudsmen, human rights commissions, and similar institutions should be permitted to address violations of the right.*”<sup>16</sup>

## **Regulatory systems**

The Sub-Commission Guidelines indicate that States should, at all levels of government, “*Establish a regulatory system for private and public water and sanitation service providers that requires them to provide physical, affordable and equal access to safe, acceptable and sufficient water and to appropriate sanitation and includes mechanisms to ensure genuine public participation, independent monitoring and compliance with regulations.*”<sup>17</sup>

Regulatory bodies need to be established to ensure that providers comply with delivery standards and those bodies need to set up methods whereby users can hold service providers to account. This monitoring and the regulation of service providers is the State’s responsibility. When violations occur, governments are also responsible for providing accessible and effective complaint procedures with effective remedies.

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<sup>15</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p. 17, par. 55

<sup>16</sup> Ibid.

<sup>17</sup> Sub-Commission Guidelines, Report of the Special Rapporteur, El Hadji Guissé, E/CN.4/Sub.2/2005/25, 11 July 2005, p.6, section. 2.3 (e)

### ***(e) Physical accessibility of water and sanitation***

The category *Physical accessibility of water and sanitation* includes sources that address the fact that water and sanitation are often inaccessible for various reasons.

General availability of sufficient safe water does not automatically fulfil the right to safe drinking water and sanitation. For example, water may only be accessible for certain people, or limited regions, thus excluding certain groups from access. Water collection points are often located far away from home so that people, women and girls in particular, need to spend a lot of time collecting water for the basic needs of the family. Furthermore, people's safety can be at risk while using the services, especially using sanitation facilities at night.

Users which may have special requirements include children, elderly, chronically ill people, persons with disabilities and women, particularly pregnant women. In order to ensure accessibility for all sectors of society, extra attention may need to be given to people with special needs.

On this issue, General Comment No. 15 states:

*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, lifecycle and privacy requirements. Physical security should not be threatened during access to water facilities and services;*<sup>18</sup>

General Comment No.15 also requires States 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.*”<sup>19</sup>

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<sup>18</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p. 6, par. 12 (c) (i)

<sup>19</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p. 13, par. 37 (c)

## Distance

In the case of distance to sanitary services, the Sphere Standards<sup>20</sup> provide minimum requirements in *emergency situations* and state that, “*people have adequate number of toilets, sufficiently close to their dwellings, to allow them rapid, safe and acceptable access at all times of the day and night*”.

For both water and sanitation, a key measurement is the distance to the next sanitation facility and the next source of potable water. The Sphere Standards recommend that each toilet is no more than 50 meters from the dwelling, and that each toilet serves a maximum of 20 people.

The Sphere Standards are international standards used in disaster response and are therefore not sufficient for household access. From a human rights perspective, a toilet that serves 20 people would generally be considered inadequate. However, taking into consideration the number of people that have currently no access to a toilet at all, and the principle of progressive realization of the right to safe drinking water and sanitation, the Sphere Standards can serve as a useful basis to reach an *absolute minimum* for all. Higher targets can then be implemented in the medium and long-term once basic targets have been met.

## Time

With regard to water, the time spent collecting water is another key measurement to determine access. Research has shown that at a distance of 100 to 1,000 metres, corresponding to 5 to 30 minutes spent, people are likely to fetch less than 20 litres of water per person per day. This amount increases to about 50 litres if water is accessible on-plot through a single tap in the house or yard.<sup>21</sup>

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<sup>20</sup> The Sphere Project, Humanitarian Charter and Minimum Standards in Humanitarian Response (2011), Chap.: Minimum Standards in Water Supply, Sanitation and Hygiene Promotion, p. 108, available at <http://www.sphereproject.org/> (Last visited 22 Aug 2011)

<sup>21</sup> G. Howard, J. Bartram, Domestic Water Quantity, Service Level and Health, WHO, 2003.

## **(f) Affordability of water and sanitation**

The category on affordability acknowledges that, for many people, cost is a big obstacle in obtaining a sufficient quantity and quality of freshwater and sanitation. When water and sanitation services are expensive, people will seek cheaper and less safe alternatives. High cost water and sanitation also affects people's ability to pay for other essential goods such as food, housing and health or forces them to choose one essential good over the other.

### **Subsidies and tariff mechanisms**

As stated in General Comment No. 15, "*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.*"<sup>22</sup>

General Comment No. 15 does not mention that water should be free of all cost. It states that it should be *affordable for all*. Yet reference is made to the obligation to provide water free of charge if necessary, "*to ensure that water is affordable, State parties must adopt the necessary measures that may include [...] appropriate pricing policies such as free or low-cost water.*"<sup>23</sup>

The Commission Guidelines indicate that sanitary services and water, "*should be supplied at a price that everyone can afford without compromising their ability to acquire other basic goods and services*"<sup>24</sup>

This means that in some instances, water and sanitation may need to be subsidized or even free for poor communities.

To ensure that water and sanitation service delivery is affordable for all sections of society without the need for continuous government subsidies, an equitable tariff structure for water and sanitation services should be established.

While full cost recovery for all needed infrastructure investments may not be possible, water and sanitation service provision can be financially sustainable in the long term if appropriate tariff mechanisms are put in place.

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<sup>22</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p.6, par. 12(c)(ii)

<sup>23</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p.10, par. 27

<sup>24</sup> UN Sub-Commission Guidelines, Report of the Special Rapporteur, El Hadji Guissé, E/CN.4/Sub.2/2005/25, 11 July 2005, p. 6, section 1.3(d)

Governments should prioritize parts of the national budget for investing in new and existing water and sanitation infrastructure and to subsidize users on low incomes.

As the Sub-Commission Guidelines state, *“States should 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.”*<sup>25</sup>

## **Pricing structures**

Once a basic service is established, different measures can be developed to structure the pricing of water and sanitation. It can be difficult to find regulations that do not create disincentives for the water providers. For example, when governments create tariff standards that charge people on a scale according to incomes, it is likely that a service provider will focus on providing prosperous areas. Similarly, increasing block tariff rates, where the rate per unit of water increases as the volume of consumption increases, could also create a motive to focus on high volume users, instead of small-scale users, as they will yield more profits.

This is why it is important to balance the measures imposed to ensure affordability, in order to secure an extension of services to poor or remote areas. This could be realized through agreements between governments and service providers including specific conditions and targets for the service providers to extend services to low-income or remote areas. By means of subsidies and conditions on permits, one can influence the investments on service to diverse regions.<sup>26</sup>

Cross-subsidization of tariffs is most often used to ensure financial self-sustainability. Based on the ability of each community or household to pay, price brackets are established that ensure affordability of water. Low income communities will pay a comparatively lower price for the water units they use while high income communities will pay a comparatively higher per unit rate. To ensure equitability of tariffs, tariff brackets can be defined depending on the amount of water used, as low income communities generally use less water per person than high income communities. If properly devised, this or similar cross-subsidization mechanisms ensure that water is valued by users and not wasted, while also ensuring affordability for all as well as financial sustainability of the system.

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<sup>25</sup> UN Sub-Commission Guidelines, Report of the Special Rapporteur, El Hadji Guissé, E/CN.4/Sub.2/2005/25, 11 July 2005, p. 8, section 6.3

<sup>26</sup> See for more information; <http://www.unep.org/dewa/vitalwater/article138.html> (Last visited 22 Aug 2011)

## **Monitoring the ability to pay**

Lastly, governments could integrate measures that monitor the *ability* to pay, especially in regard to disconnections. Regulations on disconnecting people from services should take into account people's ability to pay, and should not lead to the denial of basic amounts of water essential for the fulfilment of the human right to safe drinking water and sanitation where non-payment is due to poverty.



### ***(g) Water availability and allocation***

Availability of freshwater is an increasing problem due to growing populations, over-use of water, contamination of water sources and extreme weather, often leaving people without access to water for domestic needs. Sources listed under *Water availability and allocation* relate to this challenge.

#### **Prioritizing domestic use**

Viewed at a global level, there is more than enough water to meet all human needs, but water is unequally distributed between and within countries.<sup>27</sup> Strict policies and regulations on water availability and allocation can secure the availability of sufficient amounts of water for everyone to meet their domestic needs – for drinking, personal hygiene, cooking and sanitation.

The total amount of water used for domestic purposes covers only a small proportion of global water usage. Water for domestic uses comprises only 8 per cent of the total worldwide water usage.<sup>28</sup> The greater part of all water usages is for agricultural and industrial purposes. If this type of water usage was prioritized, there would be enough freshwater for everyone's essential domestic needs.

However, agriculture and industry are also important for a country's overall development and serve the realization of other human rights, for example the right to food. On the other hand, there is other use not essential for domestic, agricultural or industrial needs – for example maintaining swimming pools or watering golf courses – sometimes present in areas where large parts of the population do not have sufficient access to drinking water.

The equitable implementation of the right to safe drinking water and sanitation through laws and policies can regulate the diverse uses of water and ensure that essential domestic uses receive priority. Establishing license systems by the government is one method to prioritize water consumption for domestic needs. Using water for essential domestic uses, including subsistence agriculture, would not require a license for example while industry and large-scale agricultural production, would.

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<sup>27</sup> UNDP, Human Development Report 2006, "Beyond scarcity: Power, poverty and the global water crisis", p. 13, available at: <http://hdr.undp.org/en/media/HDR06-complete.pdf> (Last visited 22 Aug 2011)

<sup>28</sup> As published on; [http://www.unwater.org/statistics\\_use.html](http://www.unwater.org/statistics_use.html) (Last visited 22 Aug 2011)

## WHO guidelines on water quantity needed for domestic use

General Comment No. 15 stipulates, “*the quantity of water available for each person should correspond to World Health Organization (WHO) guidelines.*” WHO guidelines indicate that 50-100 litres of water per person per day are sufficient to cover all basic human needs. 20 litres are considered the absolute minimum at which basic health can be maintained in most circumstances.<sup>29</sup> The quantity required by each person varies to a certain extent based on circumstances such as sex, age, climate temperature and labour conditions.<sup>30</sup>

## Sustainability

General Comment No. 15 states that, “*The manner of the realization of the right to water must also be sustainable, so as to ensure that the right to water can be realized for present and future generations.*”<sup>31</sup>

The Sub-Commission Guidelines state that, “*States should adopt measures to prevent over-consumption and promote efficient water use, such as public education, dissemination of appropriate conservation technologies, and, as necessary, restrictions on water use beyond an acceptable consumption threshold, including through the imposition of charges.*”<sup>32</sup>

In order to establish a sustainable way of allocation and availability of water, attention needs to be given to the improvement of water resource management<sup>33</sup>, the development of technologies to recycle and reuse water and awareness-raising on the short- and long-term dangers of over-extraction and pollution among people.

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<sup>29</sup> G. Howard and J. Bartram, Domestic Water Quantity, Service Level and Health, (World Health Organization, 2003), p. 22.

<sup>30</sup> The quantity of water needed as a minimum varies in different circumstances. Sex, age, temperature and labour conditions play a role. These standards are expounded in: J. Bartram and G. Howard, “*Domestic water quantity, service level and health: what should be the goal for water and health sectors*”, WHO, 2003.  
[http://whqlibdoc.who.int/hq/2003/WHO\\_SDE\\_WSH\\_03.02.pdf](http://whqlibdoc.who.int/hq/2003/WHO_SDE_WSH_03.02.pdf) (Last visited 2 May 2011)

<sup>31</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p. 5, par. 11

<sup>32</sup> UN Sub-Commission Guidelines, Report of the Special Rapporteur, El Hadji Guissé, E/CN.4/Sub.2/2005/25, 11 July 2005, p.7, section 4.2

<sup>33</sup> See UN-Water “*Status Report on Integrated Water Resources Management and Water Efficiency Plans*”, May 2008, available at: [http://www.unwater.org/downloads/UNW\\_Status\\_Report\\_IWRM.pdf](http://www.unwater.org/downloads/UNW_Status_Report_IWRM.pdf) (Last visited 22 Aug 2011)

### ***(h) Water quality and hygiene***

Sources listed under *Water quality and hygiene* address the dangers of unsafe water which can lead to severe health problems and prevent people from living a hygienic and healthy life.

#### **Safe**

General Comment No. 15 states that, “*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.*”<sup>34</sup>

The highest health risk comes from *pathogenic organisms*, such as viruses, bacteria or fungi that can cause severe diseases after brief periods of exposure<sup>35</sup> but chemical contamination from agricultural and industrial sources also poses a considerable risk to people’s health.

#### **Acceptable odour, colour and taste**

General Comment No. 15 also indicates that, “*water should be of an acceptable colour, odour and taste for each personal or domestic use.*”<sup>36</sup>

Water that does not create an immediate threat to health can still be unacceptable since many people will interpret water which is of a strange colour, odour or taste as being unsafe and might therefore choose an unsafe alternative which *looks* more reliable.

#### **Targets for progressively improving quality**

The ‘core obligation’ concerning water quality is to ensure that water is sufficient and safe enough to prevent diseases.<sup>37</sup>

However, developing countries might find it difficult to immediately establish utilities serving water of a sufficient quality level. To address this, ICESCR states in its Article 2(1) of General Comment No.15 that each State Party should take steps, to the

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<sup>34</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p. 5, par. 12 (b)

<sup>35</sup> See World Health Organization, “*Guidelines for Drinking-water Quality*” 2011, available at: [http://whqlibdoc.who.int/publications/2011/9789241548151\\_eng.pdf](http://whqlibdoc.who.int/publications/2011/9789241548151_eng.pdf) (Last visited 22 Aug 2011)

<sup>36</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p. 5, par. 12 (b)

<sup>37</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p.12 , par. 37 (a)

maximum of its available resources, with a view to progressively achieving the full realization of the rights, by all appropriate means. To fulfil this, targets should be set to ensure progressively safer water quality. They could be short-term targets, which build the foundation for sustainable long-term progress.<sup>38</sup> Targets should be periodically reviewed to ensure that they are progressively updated and improved.<sup>39</sup>

## Measures to prevent pollution

Under the *obligation to protect*, General Comment No. 15 includes a duty to adopt legislative and other measures to restrain third parties from polluting and over extracting water sources.<sup>40</sup> Furthermore, aside from the need to adopt proper legislation and policies, the government should facilitate adequate education concerning the protection and maintenance of water resources to avoid pollution and make users aware of the need to protect sources.

## Monitoring

The Sub-Commission Guidelines state, “*States should devise regulations and policies to control pollution of water resources by all persons and organizations, both public and private, including surveillance, disincentives, pollution penalties and assistance with compliance.*”<sup>41</sup>

Monitoring bodies should be established to check water and sanitation quality regularly. This can be best done in partnership with local communities who can help to administer and operate water services and provide local knowledge and experiences.

Water and sanitation services must be adequate to fulfil the requirements for health, dignity and privacy of all people. Monitoring the quality of water and sanitation services must guard that those services are effectively protected and maintained.

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<sup>38</sup> See World Health Organization, “*Guidelines for Drinking-water Quality*” 2011, p. 32. Available at: [http://whqlibdoc.who.int/publications/2011/9789241548151\\_eng.pdf](http://whqlibdoc.who.int/publications/2011/9789241548151_eng.pdf) (Last visited 22 Aug 2011)

<sup>39</sup> See World Health Organization, “*Guidelines for Drinking-water Quality*” 2011, pp. 6, 33, 37-43. Available at: [http://whqlibdoc.who.int/publications/2011/9789241548151\\_eng.pdf](http://whqlibdoc.who.int/publications/2011/9789241548151_eng.pdf) (Last visited 22 Aug 2011)

<sup>40</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15, The Right to Water, UN Doc. E/C.12/2002/11, 26 November 2002, p.9, par. 23

<sup>41</sup> UN Sub-Commission Guidelines, Report of the Special Rapporteur, El Hadji Guissé, E/CN.4/Sub.2/2005/25, 11 July 2005, p. 8, section 7.3

## Part 1: International sources

### 1. International treaties and declarations

#### 1.1. International human rights treaties

##### Global human rights treaties

Several international conventions *explicitly* recognize the right to water and/or sanitation. Those are the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC).

Other human rights treaties *implicitly* recognize the right to safe drinking water and sanitation. Article 11(1) of the *International Covenant on Economic Social and Cultural Rights* (ICESCR) recognises "*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*".<sup>42</sup> Art. 11(1) ICESCR constitutes the central legal basis of the right to safe drinking water and sanitation in international law as the applicability of the ICESCR is unlimited both with regard to categories of people and geographical scope (universal applicability *ratione personae* and *ratione loci*).

##### 1.1.a. Recognition of the right to safe drinking water and sanitation

##### Explicit recognition

##### Convention on the Rights of the Child, 1989<sup>43</sup>

##### 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 [...]

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

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<sup>42</sup> CESCR, General Comment No. 15 on the Right to Water, para. 3.

<sup>43</sup> GA Res. 44/25, annex, 44 UN GAOR Supp. (No. 49) at 167, UN Doc. A/44/49 (1989), entered into force 2 September 1990. At: <http://www2.ohchr.org/english/law/crc.htm> (Last visited 12 May 2011).

c) to combat disease and malnutrition, including within the framework of primary health care, through, *inter alia*, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution; [...]

**Convention on the Elimination of All Forms of Discrimination against Women, 1979<sup>44</sup>**

**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 women the right: [...]

h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communication.

**Convention on the Rights of Persons with Disabilities, 2006<sup>45</sup>**

**Article 28: Adequate standard of living and social protection**

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; [...]

**Implicit recognition**

**International Covenant on Civil and Political Rights, 1966<sup>46</sup>**

**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.

**International Covenant on Economic, Social and Cultural Rights, 1966<sup>47</sup>**

<sup>44</sup> GA Res. 34/180, 34 U.N. UN GAOR Supp. (No. 46) at 193, UN Doc. A/34/46 (1979), entered into force 3 September 1981. At: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm> (Last visited 12 May 2011).

<sup>45</sup> 61 UN GAOR, Supp. (No. 49), UN Doc. A/RES/61/106 (2007). Entry into force 3 April 2008. Available at: <http://www.un.org/disabilities/convention/conventionfull.shtml> (Last visited 15 February, 2011). The Convention entered into force on 12 May 2008. For information on status of ratification and membership, see <http://www.un.org/disabilities/> (Last visited 15 November 2010).

<sup>46</sup> GA Res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 52, UN Doc A/6316 (1966), 999 U.N.T.S. 171. Entered into force 23 March 1976. At: <http://www2.ohchr.org/english/law/ccpr.htm> (Last visited 12 May 2011).

<sup>47</sup> GA Res. 2200A (XXI), 21 UN GAOR, Supp. (No. 16) at 49, UN Doc. A/6316 (1966), 993 U.N.T.S. 3. Entered into force 3 January 1976. At: <http://www2.ohchr.org/english/law/cescr.htm> (Last visited 12 May 2011).

## **Article 1**

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

## **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.

## **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 cooperation based on free consent.

## **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 reduction of the stillbirth rate and of infant mortality and for the healthy development of the child.
- b) The improvement of all aspects of environmental and industrial hygiene. [...]

## **Convention on the Rights of the Child, 1989<sup>48</sup>**

### **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.

## ***1.1.b. Non-discrimination and attention to vulnerable and marginalized groups***

## ***International Convention on the Elimination of All Forms of Racial Discrimination, 1965<sup>49</sup>***

### **Article 2**

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races [...]

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the

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<sup>48</sup> GA res. 44/25, annex, 44 UN GAOR Supp. (No. 49) at 167, UN Doc. A/44/49 (1989), entered into force 2 September 1990. At: <http://www2.ohchr.org/english/law/crc.htm> (Last visited 12 May 2011).

<sup>49</sup> GA Res. 2106 (XX), Annex, 20 UN GAOR Supp. (No. 14) at 47, UN Doc. A/6014 (1966), 660 U.N.T.S. 195. Entered into force 4 January 1969. At: <http://www2.ohchr.org/english/law/cerd.htm> (Last visited 12 May 2011).

adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

#### **Article 5**

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

[...]

(e) Economic, social and cultural rights, in particular: [...]

iii) The right to housing;

iv) The right to public health, medical care, social security and social services;

f) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks.

### ***International Covenant on Civil and Political Rights, 1966***<sup>50</sup>

#### **Article 2**

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

#### **Article 26**

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

### ***International Covenant on Economic, Social and Cultural Rights, 1966***<sup>51</sup>

#### **Article 2**

1. 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.

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<sup>50</sup> GA Res. 2200A (XXI), 21 UN GAOR, Supp. (No. 16) at 49, UN Doc. A/6316 (1966), 993 U.N.T.S. 3. Entered into force 3 January 1976. At: <http://www2.ohchr.org/english/law/ccpr.htm> (Last visited 12 May 2011).

<sup>51</sup> GA Res. 2200A (XXI), 21 UN GAOR, Supp. (No. 16) at 49, UN Doc. A/6316 (1966), 993 U.N.T.S. 3. At: <http://www2.ohchr.org/english/law/cescr.htm> (Last visited 12 May 2011).



## 1.2 International human rights declarations and resolutions

### International declarations and resolutions

International declarations and resolutions constitute political commitments made by States at the international level. They can be used as a tool to interpret international and regional treaties, as well as national legislation. Furthermore, declarations and resolutions constitute evidence of overall trends in the development of international customary law.

As shown in this Chapter, numerous resolutions, declarations and other international instruments dating from before 2010 underline that the right to safe drinking water and sanitation was broadly recognised under international law even prior to 2010.

In July 2010, however, the human right to safe drinking water and sanitation was authoritatively recognised by the UN General Assembly (the highest ranking decision making body of the UN) and the UN Human Rights Council (the highest ranking human rights body within the UN system). The General Assembly in its Resolution 64/292 *“recognises 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”*.

In September 2010, the Human Rights Council adopted resolution A/HRC/RES/15/9, which confirms the recognition of the human right to safe drinking water and sanitation by the General Assembly. Importantly, this resolution was adopted by consensus. In addition, resolution A/HRC/RES/15/9 also clarified the legal basis of the right to safe drinking water and sanitation in international law, stating 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”*.<sup>52</sup> By making clear that the right to safe drinking water and sanitation is contained in rights guaranteed in legally binding human rights treaties like the Convention on the Rights of the Child or the Covenant on Economic, Social and Cultural Rights, the right to safe drinking water and sanitation, too, becomes legally binding.

Since 2010, the UN Human Rights Council passed a number of resolutions reaffirming the resolutions quoted above.

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<sup>52</sup> Human Rights Council Resolution [A/HRC/15/L.14](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/15/L.14), 24 September 2010, available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/15/L.14](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/15/L.14) (Last visited 22 Aug 2011)

## **1.2.a. Recognition of the right to safe drinking water and sanitation**

### **Explicit recognition**

**Resolution 64/292 adopted by the General Assembly on the human right to water and sanitation, 3 August 2010<sup>53</sup>**

[...]

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;

**Human Rights Council Resolution 15/L.14 on human rights and access to safe drinking water and sanitation, 24 September 2010<sup>54</sup>**

[...]

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;

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<sup>53</sup> A/RES/64/292, available at: <http://www.un.org/en/ga/64/resolutions.shtml> (Last visited 12 May 2011)

<sup>54</sup> A/HRC/15/L.14, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/G10/163/09/PDF/G1016309.pdf?OpenElement> (Last visited 12 May 2011)

- (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;
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;
  - (c) Integrate human rights into impact assessments as appropriate, in order to identify and help address human rights challenges;
  - (d) Develop effective organizational-level grievance mechanisms for users, and refrain from obstructing access to State-based accountability mechanisms;
10. *Stresses* the important role of the international cooperation and technical assistance [...] 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;

***Resolution 16/2 adopted by the Human Rights Council on the human right to safe drinking water and sanitation, 8 April 2011***<sup>55</sup>

[...]

1. *Welcomes* the recognition of the human right to safe drinking water and sanitation by the General Assembly and the Human Rights Council, and the affirmation by the latter 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;

[...]

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 [...] 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;

***Drinking-Water, Sanitation and Health, World Health Assembly Resolution, 24 May 2011***<sup>56</sup>

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<sup>55</sup> A/HRC/RES/16/2, available at: <http://www.unhcr.org/refworld/docid/4dc108202.html> (Last visited 12 May 2011)

[...]

Recalling further the United Nations General Assembly resolution 64/292, which 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” and the Human Rights Council resolution (A/HRC/RES/15/9) affirming 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”

1. URGES Member 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;

***Mar del Plata Action Plan, Report of the United Nations Water Conference, 1977***<sup>57</sup>

## **II. Community Water Supply**

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;
- b) It is universally recognized that the availability to man of that resource is essential both for life and his full development, both as an individual and as an integral part of society; [...]

***Report of the United Nations Conference on Environment and Development ("Agenda 21"), UN Doc. A/CONF.151/26 (Vol. II), 1992***<sup>58</sup>

## **Chapter 18.47**

Safe water-supplies and environmental sanitation are vital for protecting the environment, improving health and alleviating poverty. Safe water is also crucial to many traditional and cultural activities. An estimated 80 per cent of all diseases and over one third of deaths in developing countries are caused by the consumption of contaminated water, and on average as much as one tenth of each person's productive time is sacrificed to water-related diseases. Concerted efforts during the 1980s brought water and sanitation services to hundreds of millions of the world's poorest people. The most outstanding of these efforts was the launching in 1981 of the International Drinking Water Supply and Sanitation Decade, which resulted from the Mar del Plata Action Plan adopted by the United Nations Water Conference in 1977. The commonly agreed premise was that "all peoples, whatever their stage of

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<sup>56</sup> Sixty- Fourth World Health Assembly, 24 May 2011, Doc No: WHA64.24, available at:

[http://apps.who.int/gb/ebwha/pdf\\_files/WHA64/A64\\_R24-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/WHA64/A64_R24-en.pdf) (Last visited 11 July 2011)

<sup>57</sup> Report of the United Nations Water Conference, Mar del Plata, 14-25 March 1977, U.N. Doc. E/Conf.70/29 (1977), at pp. 66-67. Available at: <http://www.ielrc.org/content/e7701.pdf> (Last visited 11 May 2011)

<sup>58</sup> Available at: <http://www.un.org/documents/ga/conf151/aconf15126-2.htm> (Last visited 12 May 2011).

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". 2/ The target of the Decade was to provide safe drinking-water and sanitation to underserved urban and rural areas by 1990, but even the unprecedented progress achieved during the Decade was not enough. One in three people in the developing world still lacks these two most basic requirements for health and dignity. It is also recognized that human excreta and sewage are important causes of the deterioration of water-quality in developing countries, and the introduction of available technologies, including appropriate technologies, and the construction of sewage treatment facilities could bring significant improvement.

***The Dublin Statement on Water and Sustainable Development, 1992*<sup>59</sup>**

**Principle No. 4**

Water has an economic value in all its competing uses and should be recognized 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. [...]

***Programme of Action of the International Conference on Population and Development, Cairo, UN Doc. A/CONF.171/13, 1994*<sup>60</sup>**

**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.

***Habitat Agenda, Second United Nations Conference on Human Settlements (Habitat II), Istanbul, 1996*<sup>61</sup>**

**Principle 11**

More people than ever are living in absolute poverty and without adequate shelter. Inadequate shelter and homelessness are growing plights in many countries, threatening standards of health, security and even life itself. Everyone has the right to an adequate standard of living for themselves and their families, including adequate food, clothing, housing, water and sanitation, and to the continuous improvement of living conditions.

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<sup>59</sup> Five hundred participants, including government-designated experts from a hundred countries and representatives of eighty international, intergovernmental and non-governmental organizations attended the International Conference on Water and the Environment (ICWE) in Dublin, Ireland, on 26-31 January 1992. Available at: <http://www.un-documents.net/h2o-dub.htm> (Last visited 12 May 2011).

<sup>60</sup> At: <http://www.un.org/popin/icpd/conference/offeng/poa.html> (Last visited 12 May 2011). The 177 States represented at the Conference adopted the Cairo Programme of Action by consensus. For a full list of participants, see: Report of the International Conference on Population and Development, A/CONF.171/13, 18 October 1994, at: <http://www.un.org/popin/icpd/conference/offeng/poa.html>. (Last visited 12 May 2011)

<sup>61</sup> The Habitat Agenda Goals and Principles, Commitments and the Global Plan of Action, available at: [http://www.unhabitat.org/downloads/docs/1176\\_6455\\_The\\_Habitat\\_Agenda.pdf](http://www.unhabitat.org/downloads/docs/1176_6455_The_Habitat_Agenda.pdf) (Last visited 12 May 2011). The 171 States represented at the Conference adopted the Habitat Agenda by consensus. For a full list of participants, see: UN Doc. A/CONF.165/L.4 (1996), available at: <http://graduateinstitute.ch/faculty/clapham/hrdoc/docs/Habitat%20Agenda.pdf> (Last visited 11 May 2011)

## ***Guiding Principles on Internal Displacement, 1998***<sup>62</sup>

### **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.

## ***UN General Assembly Resolution on the right to development, UNGA Res. 54/175, 2000***<sup>63</sup>

### **Article 12**

*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; [...]

*This text was adopted following Resolution 46/91 of 16 December 1991*<sup>64</sup> *and the Declaration on the Right to Development of 1986*<sup>65</sup> *which states in Article 8 that States shall ensure notably the "equality of opportunity for all in their access to basic resources." Drinking water can clearly be considered one of these basic resources.*

## ***Commission on Human Rights, Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, Human Rights Resolution 2005/15, 2005***<sup>66</sup>

### **Preamble**

The Commission on Human Rights,

*Guided* by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the Vienna Declaration and Programme of Action, particularly on the question of the human rights of everyone to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to clean water, food, adequate housing and work, [...]

4. *Reaffirms* that illicit traffic in and dumping of toxic and dangerous products and wastes constitute a serious threat to human rights, including the right to life, the enjoyment of the highest attainable standard of physical and mental health and other

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<sup>62</sup> Available at: [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/A2D4116C222EB1F18025709E00419430/\\$file/GPsEnglish.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/A2D4116C222EB1F18025709E00419430/$file/GPsEnglish.pdf) (Last visited 12 May 2011)

<sup>63</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/279/11/PDF/N0027911.pdf?OpenElement> (Last visited 11 May 2011)

<sup>64</sup> Available at: <http://www.un.org/documents/ga/res/46/a46r091.htm> (Last visited 11 May 2011).

<sup>65</sup> *Resolution 41/128 of 04 December 1986*, available at: <http://www.un.org/documents/ga/res/41/a41r128.htm> (Last visited 11 May 2011).

<sup>66</sup> Available at: [http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN\\_4-RES-2005-15.doc](http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2005-15.doc) (Last visited 12 May 2011).

human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to clean water, food, adequate housing and work; [...]

9. *Urges* the international community and the relevant United Nations bodies, in particular the United Nations Environment Programme and the secretariat for the Basel Convention, to continue to give appropriate support to developing countries, upon their request, in their efforts to implement the provisions of existing international and regional instruments controlling the transboundary movement and dumping of toxic and dangerous products and wastes in order to protect and promote human rights, including the right to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to clean water, food, adequate housing and work; [...]

***Final Document of the 14th Summit Conference of Heads of State or Government of the Non-Aligned Movement, Havana, Cuba, 11-16 September 2006***<sup>67</sup>

**Paragraph 226 - Water**

226. The Heads of State or Government recalled what was agreed by the UN Committee on Economic, Social and Cultural Rights in November 2002, recognised the importance of water as a vital and finite natural resource, which has an economic, social and environmental function, and acknowledged the right to water for all.<sup>68</sup>

*The Non-Aligned Movement later re-affirmed recognition of the right to water in identical terms in paragraph 310 of the Final Document of the 15<sup>th</sup> Summit Conference of Heads of State or Government of the Non-Aligned Movement, Teheran, 27-30 July 2008*<sup>69</sup> and paragraph 393 of the Final Document of the XV Summit of Heads of State and Government of the Non-Aligned Movement, Sharm el Sheikh, Egypt, 11-16 July 2009.<sup>70</sup>

**Implicit recognition**

***Universal Declaration of Human Rights, UNGA Res. 217 (III), UN Doc. A/810, 1948***<sup>71</sup>

**Article 25**

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<sup>67</sup> Available at: <http://www.namegypt.org/en/RelevantDocuments/Pages/default.aspx> (Last visited 12 May 2011). For a full list of member States of the Non-Aligned Movement, see:

<http://www.nam.gov.za/background/members.htm> (Last visited 12 May 2011).

<sup>68</sup> The Non-Aligned Movement later re-affirmed recognition of the right to water in identical terms in paragraph 310 of the Final Document of the 15<sup>th</sup> Summit Conference of Heads of State or Government of the Non-Aligned Movement, Teheran, 27-30 July 2008 (NAM 2008/Doc.1/Rev.2 available at:

<http://www.namegypt.org/Relevant%20Documents/Final%20Document%20of%20the%2015th%20Ministerial%20Conference%20of%20the%20NonAligned%20Movement.pdf>) and paragraph 393 of the Final Document of the XV Summit of Heads of State and Government of the Non-Aligned Movement, Sharm el Sheikh, Egypt, 11-16 July 2009 (NAM2009/FD/Doc.1, available at:

<http://www.namegypt.org/en/RelevantDocuments/Pages/default.aspx>).

<sup>69</sup> NAM 2008/Doc.1/Rev.2, available at:

<http://www.namegypt.org/Relevant%20Documents/Final%20Document%20of%20the%2015th%20Ministerial%20Conference%20of%20the%20NonAligned%20Movement.pdf>.

<sup>70</sup> NAM2009/FD/Doc.1, available at: <http://www.namegypt.org/en/RelevantDocuments/Pages/default.aspx>.

<sup>71</sup> Available at: <http://www.udhr.org/udhr/udhr.HTM> (Last visited 12 May 2011)

Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, [...] housing [...] and necessary social services, [...]

***Rio Declaration on Environment and Development, UN Conference on Environment and Development, 1992***<sup>72</sup>

**Principle 1**

Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

***Commission on Human Rights, Human Rights Resolution 2005/24***<sup>73</sup>

**Paragraph 17**

Affirms that access to a sufficient amount of safe, clean water for personal and domestic use [...] is fundamental to the realization of the right of everyone to the enjoyment of the highest attainable standard of health;

***World Declaration on the Survival, Protection and Development of Children, adopted at the World Summit for Children, 1990***<sup>74</sup>

**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.

***Standard Minimum Rules for the Treatment of Prisoners, 1955***<sup>75</sup>

**Personal hygiene**

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.

**20. Food**

(1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.

(2) Drinking water shall be available to every prisoner whenever he needs it.

***United Nations Rules for the Protection of Juveniles Deprived of their Liberty, UN Doc. A/RES/45/113, 1990***<sup>76</sup>

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<sup>72</sup> At: <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163> (Last visited 12 May 2011).

<sup>73</sup> Available at: [http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN\\_4-RES-2005-24.doc](http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2005-24.doc) (Last visited 12 May 2011)

<sup>74</sup> Available at: <http://www.un-documents.net/wsc-dec.htm> (Last visited 12 May 2011)

<sup>75</sup> Available at: <http://www2.ohchr.org/english/law/treatmentprisoners.htm> (Last visited 12 May 2011).



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.

[...]

37. Every detention facility shall ensure that every juvenile receives food that is suitably prepared and presented at normal meal times and of a quality and quantity to satisfy the standards of dietetics, hygiene and health and, as far as possible, religious and cultural requirements. Clean drinking water should be available to every juvenile at any time.

***United Nations Principles for Older Persons, UN Doc. A/RES/46/91, 1991***<sup>77</sup>

**Independence**

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; [...]

***Johannesburg Plan of Implementation of the World Summit on Sustainable Development, 2002***<sup>78</sup>

25. Launch a programme of actions, with financial and technical assistance, to achieve the Millennium development goal on safe drinking water. In this respect, we agree to halve, by the year 2015, the proportion of people who are unable to reach or to afford safe drinking water, as outlined in the Millennium Declaration, and the proportion of people without access to basic sanitation, which would include actions at all levels to:

a) Mobilize international and domestic financial resources at all levels, transfer technology, promote best practice and support capacity-building for water and sanitation infrastructure and services development, ensuring that such infrastructure and services meet the needs of the poor and are gender-sensitive;

[...]

c) Promote priority action by Governments, with the support of all stakeholders, in water management and capacity-building at the national level and, where appropriate, at the regional level, and promote and provide new and additional financial resources and innovative technologies to implement chapter 18 of Agenda 21;

d) Intensify water pollution prevention to reduce health hazards and protect ecosystems by introducing technologies for affordable sanitation and industrial and domestic wastewater treatment, by mitigating the effects of groundwater contamination and by establishing, at the national level, monitoring systems and effective legal frameworks;

e) Adopt prevention and protection measures to promote sustainable water use and to address water shortages.

***UN Human Rights Council Resolution A/HRC/7/L.16, 20 March 2008***<sup>79</sup>

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<sup>76</sup> At: <http://www.un.org/documents/ga/res/45/a45r113.htm> (Last visited 16 November, 2010).

<sup>77</sup> Available at: <http://www.un.org/NewLinks/older/99/principles.htm> (Last visited 12 May 2011).

<sup>78</sup> At: [http://www.un.org/esa/sustdev/documents/WSSD\\_POI\\_PD/English/WSSD\\_PlanImpl.pdf](http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/WSSD_PlanImpl.pdf) (Last visited 12 May 2011).

<sup>79</sup> Available at: [http://www.oikoumene.org/fileadmin/files/wcc-main/documents/p4/ewn/single\\_docs/A\\_HRC\\_7\\_L\\_16.pdf](http://www.oikoumene.org/fileadmin/files/wcc-main/documents/p4/ewn/single_docs/A_HRC_7_L_16.pdf) (Last visited 12 May 2011).

### **[Perambulatory Paragraph 11]**

*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, [...]

### **1.2.b. Non-discrimination and attention to vulnerable and marginalized groups**

#### ***Universal Declaration of Human Rights, UNGA Res. 3/217 (III), 1948*<sup>80</sup>**

##### **Article 2**

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. [...]

##### **Article 7**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

#### ***Guiding Principles on Internal Displacement, 1998*<sup>81</sup>**

##### **Principle 18**

[...]

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.

#### ***The Dublin Statement on Water and Sustainable Development, 1992*<sup>82</sup>**

##### **Principle No. 3**

Women play a central part in the provision, management and safeguarding of water. This pivotal role of women as providers and users of water and guardians of the living environment has seldom been reflected in institutional arrangements for the development and management of water resources. Acceptance and implementation of this principle requires positive policies to address women's specific needs and to equip and empower women to participate at all levels in water resources

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<sup>80</sup> Available at: <http://www.un-documents.net/a3r217a.htm> (Last visited 12 May 2011).

<sup>81</sup> The newest version of these principles from the year 2004 is available at: [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/A2D4116C222EB1F18025709E00419430/\\$file/GPsEnglish.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/A2D4116C222EB1F18025709E00419430/$file/GPsEnglish.pdf) (Last visited 12 May 2011)

<sup>82</sup> Five hundred participants, including government-designated experts from a hundred countries and representatives of eighty international, intergovernmental and non-governmental organizations attended the International Conference on Water and the Environment (ICWE) in Dublin, Ireland, on 26-31 January 1992. Available at: <http://www.un-documents.net/h2o-dub.htm> (Last visited 12 May 2011).

programmes, including decision-making and implementation, in ways defined by them.

***Drinking-Water, Sanitation and Health, World Health Assembly Resolution, 24 May 2011***<sup>83</sup>

1. URGES Member States:

5) to mobilize their efforts, in consultation with bilateral and multilateral partners and in close coordination with responsible local authorities, to prioritize and implement the reduction of disparities which exist between urban, periurban and rural areas as regards access to drinking-water at home as well as from other improved sources, improved sanitation facilities and hygiene;

***1.2.c. Participation and access to information***

***Rio Declaration on Environment and Development, UN Conference on Environment and Development, 1992***<sup>84</sup>

**Principle 10**

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

***Johannesburg Plan of Implementation of the World Summit on Sustainable Development, 2002***<sup>85</sup>

We agree to [...]

25. [...]

b) Facilitate access to public information and participation, including by women, at all levels in support of policy and decision-making related to water resources management and project implementation;

[...]

***The Dublin Statement on Water and Sustainable Development, 1992***<sup>86</sup>

**Principle No. 2**

Water development and management should be based on a participatory approach, involving users, planners and policy-makers on all levels. The participatory approach

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<sup>83</sup> Sixty- Fourth World Health Assembly, 24 May 2011, Doc No: WHA64.24, available at: [http://apps.who.int/gb/ebwha/pdf\\_files/WHA64/A64\\_R24-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/WHA64/A64_R24-en.pdf) (Last visited 11 July 2011)

<sup>85</sup> At: [http://www.un.org/esa/sustdev/documents/WSSD\\_POI\\_PD/English/WSSD\\_PlanImpl.pdf](http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/WSSD_PlanImpl.pdf) (Last visited 12 May 2011).

<sup>86</sup> Five hundred participants, including government-designated experts from a hundred countries and representatives of eighty international, intergovernmental and non-governmental organizations attended the International Conference on Water and the Environment (ICWE) in Dublin, Ireland, on 26-31 January 1992. Available at: <http://www.un-documents.net/h2o-dub.htm> (Last visited 12 May 2011).

involves raising awareness of the importance of water among policy-makers and the general public. It means that decisions are taken at the lowest appropriate level, with full public consultation and involvement of users in the planning and implementation of water projects.

#### **1.2.d. Accountability**

***Rio Declaration on Environment and Development, UN Conference on Environment and Development, 1992***<sup>87</sup>

##### **Principle 10**

[...] Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

#### **1.2.f. Affordability of water and sanitation**

***Johannesburg Plan of Implementation of the World Summit on Sustainable Development, 2002***<sup>88</sup>

26. Develop integrated water resources management and water efficiency plans by 2005, with support to developing countries, through actions at all levels to:

[...]

b) Employ the full range of policy instruments, including regulation, monitoring, voluntary measures, market and information-based tools, land-use management and cost recovery of water services, without cost recovery objectives becoming a barrier to access to safe water by poor people, and adopt an integrated water basin approach;

#### **1.2.g. Water availability and allocation**

***Report of the United Nations Conference on Environment and Development ("Agenda 21"), UN Doc. A/CONF.151/26 (Vol. II), 1992***<sup>89</sup>

##### **Objectives**

18.8 [...] In developing and using water resources, priority has to be given to the satisfaction of basic needs and the safeguarding of ecosystems. Beyond these requirements, however, water users should be charged appropriately.

***Mar del Plata Action Plan, Report of the United Nations Water Conference, 1977***<sup>90</sup>

##### **II. Community Water Supply**

The United Nations Water Conference, [...] Recommends:

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<sup>88</sup> Available at: [http://www.un.org/esa/sustdev/documents/WSSD\\_POI\\_PD/English/WSSD\\_PlanImpl.pdf](http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/WSSD_PlanImpl.pdf) (Last visited 12 May 2011).

<sup>89</sup> At: <http://www.gdrc.org/uem/water/agenda21chapter18.html> (Last visited 17 November, 2010).

<sup>90</sup> Report of the United Nations Water Conference, Mar del Plata, 14-25 March 1977, U.N. Doc. E/Conf.70/29 (1977), at pp. 66-67. Available at: <http://www.ielrc.org/content/e7701.pdf> (Last visited 11 May 2011)

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; [...]

***Johannesburg Plan of Implementation of the World Summit on Sustainable Development, 2002***<sup>91</sup>

26. [...]

[...]

c) Improve the efficient use of water resources and promote their allocation among competing uses in a way that gives priority to the satisfaction of basic human needs and balances the requirement of preserving or restoring ecosystems and their functions, in particular in fragile environments, with human domestic, industrial and agriculture needs, including safeguarding drinking water quality;

[...]

***Report of the United Nations Conference on Environment and Development ("Agenda 21"), UN Doc. A/CONF.151/26 (Vol. II), 1992***<sup>92</sup>

**Chapter 18.2**

Water is needed in all aspects of life. The general objective is to make certain that adequate supplies of water of good quality are maintained for the entire population of this planet, while preserving the hydrological, biological and chemical functions of ecosystems, adapting human activities within the capacity limits of nature and combating vectors of water-related diseases. [...]

***The Dublin Statement on Water and Sustainable Development, 1992***<sup>93</sup>

**Principle No. 1**

Fresh water is a finite and vulnerable resource, essential to sustain life, development and the environment. Since water sustains life, effective management of water resources demands a holistic approach, linking social and economic development with protection of natural ecosystems. Effective management links land and water uses across the whole of a catchment area or groundwater aquifer.

***Proclamation of the International Drinking Water Supply and Sanitation Decade, UN Doc. A/RES/35/80, 1980***<sup>94</sup>

**Paragraph 1**

*Proclaims* the period 1981-1990 as the International Drinking Water Supply and Sanitation Decade, during which Member States will assume a commitment to bring about a substantial improvement in the standards and levels of services in drinking water supply and sanitation by the year 1990;

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<sup>91</sup> Available at: [http://www.un.org/esa/sustdev/documents/WSSD\\_POI\\_PD/English/WSSD\\_PlanImpl.pdf](http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/WSSD_PlanImpl.pdf) (Last visited 12 May 2011).

<sup>92</sup> Available at: <http://www.gdrc.org/uem/water/agenda21chapter18.html> (Last visited 12 May 2011).

<sup>93</sup> Five hundred participants, including government-designated experts from a hundred countries and representatives of eighty international, intergovernmental and non-governmental organizations attended the International Conference on Water and the Environment (ICWE) in Dublin, Ireland, on 26-31 January 1992. Available at: <http://www.un-documents.net/h2o-dub.htm> (Last visited 12 May 2011).

<sup>94</sup> Available at: <http://www.un.org/documents/ga/res/35/a35r18e.pdf> (Last visited 12 May 2011).

### **1.2.h. Water quality and hygiene**

***Final Document of the XV summit of heads of State and government of the Non-Aligned Movement, Sharm el Sheikh, Egypt, 11<sup>th</sup> to 16<sup>th</sup> of July 2009<sup>95</sup>***  
**392**

The Heads of State and Government stressed the need to intensify water pollution prevention to reduce health hazards and protect ecosystems by introducing technologies for affordable sanitation and industrial and domestic wastewater treatment, by mitigating the effects of groundwater contamination and by establishing, at the national level, monitoring systems and effective legal frameworks.

### **1.3. International environmental and labour law treaties**

#### ***1.3.a. Recognition of the right to safe drinking water and sanitation***

##### **Implicit recognition**

***Indigenous and Tribal Peoples Convention, 1989, (No. 169)<sup>96</sup>***

##### **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.

2. In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities.

#### ***1.3.c. Participation and access to information***

***United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, 1994<sup>97</sup>***

##### **Article 10: National Action Programmes**

2. National action programmes shall specify the respective roles of government, local communities and land users and the resources available and needed. They shall, inter alia:

[...]

<sup>95</sup> NAM2009/FD/Doc.1, available at: <http://www.namegypt.org/en/RelevantDocuments/Pages/default.aspx> (Last visited 12 May 2011)

<sup>96</sup> Available at: <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C169> (Last visited 12 May 2011). For status on ratification, see: <http://www.ilo.org/ilolex/cgi-lex/ratific.pl?C169> (Last visited 12 May 2011).

<sup>97</sup> Available at: <http://www.unccd.int/convention/text/convention.php?annexNo=0> (Last visited 12 May 2011).

- e) promote policies and strengthen institutional frameworks which develop cooperation and coordination [...] between the donor community, governments at all levels, local populations and community groups, and facilitate access by local populations to appropriate information and technology;
- f) provide for effective participation at the local, national and regional levels of nongovernmental organizations and local populations, both women and men, particularly resource users, including farmers and pastoralists and their representative organizations, in policy planning, decision-making, and implementation and review of national action programmes;

### **1.3.g. Water availability and allocation**

#### ***United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses, 1997*<sup>98</sup>**

##### **Article 5: Equitable and reasonable utilization and participation**

Watercourse States shall in their respective territories utilize an international watercourse in an equitable and reasonable manner. In particular, an international watercourse shall be used and developed by watercourse States with a view to attaining optimal and sustainable utilization thereof and benefits there from, taking into account the interests of the watercourse States concerned, consistent with adequate protection of the watercourse.

##### **Article 6: Factors relevant to equitable and reasonable utilization**

1. Utilization of an international watercourse in an equitable and reasonable manner within the meaning of Article 5 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;
- d) The effects of the use or uses of the watercourses in one watercourse State on other watercourse States;
- e) Existing and potential uses of the watercourse;

[...]

3 The weight to be given to each factor is to be determined by its importance in comparison with that of other relevant factors. In determining what is a reasonable and equitable use, all relevant factors are to be considered together and a conclusion reached on the basis of the whole.

[...]

##### **Article 10: Relationship between different kinds of uses**

1. In the absence of agreement or custom to the contrary, no use of an international watercourse enjoys inherent priority over other uses.

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<sup>98</sup> Available at: [http://untreaty.un.org/ilc/texts/instruments/english/conventions/8\\_3\\_1997.pdf](http://untreaty.un.org/ilc/texts/instruments/english/conventions/8_3_1997.pdf) (Last visited 11 May, 2011). The Convention has not yet entered into force. However, it is generally accepted that most of its substantive provisions, including the rules on equitable utilization and the prohibition to cause significant harm, have developed into international customary law.

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.

*Regarding Article 10 of the 1997 Watercourse Convention, the Statement of Understanding issued by the States negotiating the Convention states that;*

*“In determining ‘vital human needs’, special attention is to be paid to providing sufficient water to sustain human life, including both drinking water and water required for production of food in order to prevent starvation.”<sup>99</sup>*

*Furthermore, the International Law Association's Berlin Rules on Water Resources (2004)<sup>100</sup> stipulate in Article 2 (20) that “ ‘Vital human needs’ means waters used for immediate human survival, including drinking, cooking, and sanitary needs, as well as water needed for the immediate sustenance of a household.” In Article 14 it is stated that: “In determining an equitable and reasonable use, States shall first allocate waters to satisfy vital human needs.[...]No other use or category of uses shall have an inherent preference over any other use or category of uses.”*

*Article 17 of the International Law Association's Berlin Rules on Water Resources (2004)<sup>101</sup> recognizes the right to water:*

*“ 1. Every individual has a right of access to sufficient, safe, acceptable, physically accessible, and affordable water to meet that individual's vital human needs.*

*2. States shall ensure the implementation of the right of access to water on a non-discriminatory basis.*

*3. States shall progressively realize the right of access to water by:*

*a) Refraining from interfering directly or indirectly with the enjoyment of the right;*

*b) Preventing third parties from interfering with the enjoyment of the right;*

*c) Taking measures to facilitate individuals access to water, such as defining and enforcing appropriate legal rights of access to and use of water; and*

*d) Providing water or the means for obtaining water when individuals are unable, through reasons beyond their control, to access water through their own efforts.*

*4 States shall monitor and review periodically, through a participatory and transparent process, the realization of the right of access to water. ”*

### ***United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, 1994<sup>102</sup>***

#### **Article 2: Objective**

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

<sup>99</sup> Report of the Sixth Committee convening as the Working Group of the Whole, UN Doc. A/51/869 of 11 April 1997, para. 8 (page 5), <http://www.undemocracy.com/A-51-869.pdf> (Last visited 11 May, 2011).

<sup>100</sup> International Law Association, Water Resources Committee, (2004). Available at: <http://www.ppl.nl/bibliographies/water/files/4675.pdf> (Last visited 11 May 2011).

<sup>101</sup> International Law Association, Water Resources Committee, (2004). Available at: <http://www.ppl.nl/bibliographies/water/files/4675.pdf> (Last visited 11 May 2011).

<sup>102</sup> Available at: <http://www.unccd.int/convention/text/convention.php?annexNo=0> (Last visited 12 May 2011).



approach which is consistent with Agenda 21, with a view to contributing to the achievement of sustainable development in affected areas.

2. Achieving this objective will involve long-term integrated strategies that focus simultaneously, in affected areas, on improved productivity of land, and the rehabilitation, conservation and sustainable management of land and water resources, leading to improved living conditions, in particular at the community level.

### ***1.3.h. Water quality and hygiene***

#### ***Occupational Health Services Convention, 1985 (No. 161)<sup>103</sup>***

##### **Article 5**

Without prejudice to the responsibility of each employer for the health and safety of the workers in his employment, and with due regard to the necessity for the workers to participate in matters of occupational health and safety, 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;

[...]

### **1.4. International humanitarian law treaties**

#### ***1.4.a. Recognition of the right to safe drinking water and sanitation***

##### **Explicit recognition**

#### ***Geneva Convention (III) relative to the Treatment of Prisoners of War, 1949<sup>104</sup>***

##### **Article 20**

[...] The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention [...]

##### **Article 26**

The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies. [...]

Sufficient drinking water shall be supplied to prisoners of war [...]

##### **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.

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<sup>104</sup> Available at: <http://www2.ohchr.org/english/law/prisonerwar.htm> (Last visited 12 May 2011).

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.

**Article 46**

[...] The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good health, likewise with the necessary clothing, shelter and medical attention [...]

***Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, 1949***<sup>105</sup>

**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, and also with the necessary clothing, adequate shelter and the necessary medical attention. [...]

**Implicit recognition**

***Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, 1949***<sup>106</sup>

**Article 23**

Each High Contracting Party [...] shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.

**Article 36**

Departures permitted under the foregoing Article [All protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, unless their departure is contrary to the national interests of the State] shall be carried out in satisfactory conditions as regards safety, hygiene, sanitation and food [...]

**Article 49**

...The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated [...]

**Article 55**

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular,

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<sup>105</sup> Available at: <http://www.un-documents.net/gc-4.htm> (Last visited 12 May 2011).

<sup>106</sup> Available at: <http://www.un-documents.net/gc-4.htm> (Last visited 12 May 2011).

bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.

The Occupying Power may not requisition foodstuffs, articles or medical supplies available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population have been taken into account. [...]

The Protecting Power shall, at any time, be at liberty to verify the state of the food and medical supplies in occupied territories, except where temporary restrictions are made necessary by imperative military requirements.

#### **Article 59**

If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.

Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.

All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection [...]<sup>107</sup>

#### **Article 62**

Subject to imperative reasons of security, protected persons in occupied territories shall be permitted to receive the individual relief consignments sent to them.

#### **Article 76**

Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein. They shall, if possible, be separated from other detainees and shall enjoy conditions of food and hygiene which will be sufficient to keep them in good health, and which will be at least equal to those obtaining in prisons in the occupied country. [...]

#### **Article 81**

Parties to the conflict who intern protected persons shall be bound to provide free of charge for their maintenance, and to grant them also the medical attention required by their state of health. [...]

#### **Article 85**

The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigours of the climate and the effects of the war. In no case shall permanent places of internment be situated in unhealthy areas or in districts the climate of which is injurious to the internees. In all cases where the district, in which a protected person is temporarily interned, is in an unhealthy area or has a climate which is harmful to his health, he shall be removed to a more suitable place of internment as rapidly as circumstances permit.

[...]

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

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<sup>107</sup> Article 60 also provides that the occupying State shall not divert relief consignments from the purposes for which they are intended, except in cases of urgent necessity, in the interests of the civilian population and with the consent of the Protecting Power.

cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary 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.

#### **Article 89**

Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees [...]

Sufficient drinking water shall be supplied to internees [...]

Internees who work shall receive additional rations in proportion to the kind of labour which they perform.

Expectant and nursing mothers and children under fifteen years of age, shall be given additional food, in proportion to their physiological needs.

### ***Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1977***<sup>108</sup>

#### **Article 54: Protection of objects indispensable to the survival of the civilian population**

1. Starvation of civilians as a method of warfare is prohibited.

2. It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, 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, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.

3. The prohibitions in paragraph 2 shall not apply to such of the objects covered by it as are used by an adverse Party:

a) as sustenance solely for the members of its armed forces; or

b) if not as sustenance, then in direct support of military action, provided, however, that in no event shall actions against these objects be taken which may be expected to leave the civilian population with such inadequate food or water as to cause its starvation or force its movement.

4. These objects shall not be made the object of reprisals. [...]

#### **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.

#### **Article 69**

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<sup>108</sup> Available at: <http://www.unhcr.org/refworld/docid/3ae6b36b4.html> (Last visited 12 May 2011).

1. In addition to the duties specified in Article 55 of the Fourth Convention concerning food and medical supplies, the Occupying Power shall, to the fullest extent of the means available to it and without any adverse distinction, also ensure the provision of clothing, bedding, means of shelter, other supplies essential to the survival of the civilian population of the occupied territory and objects necessary for religious worship.

[...]

#### **Article 70**

[...]

2. The Parties to the conflict and each High Contracting Party shall allow and facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel provided in accordance with this Section, even if such assistance is destined for the civilian population of the adverse Party.

[...]

### ***Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1977***<sup>109</sup>

#### **Article 14 (Protection of objects indispensable to the survival of the civilian population)**

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 food-stuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.

#### **Article 18**

2. If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.<sup>110</sup>

### ***Geneva Convention (III) relative to the Treatment of Prisoners of War, 1949***<sup>111</sup>

#### **Article 51**

Prisoners of war must be granted suitable working conditions, especially as regards accommodation, food, clothing and equipment; such conditions shall not be inferior to those enjoyed by nationals of the Detaining Power employed in similar work; account shall also be taken of climatic conditions. [...]

## **1.5. International criminal law treaties**

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<sup>109</sup> Available at: <http://www2.ohchr.org/english/law/protocol2.htm> (Last visited 12 May 2011).

<sup>110</sup> Article 18 also provides that the relief schemes shall be undertaken subject to the consent of the State Party concerned.

<sup>111</sup> Available at: <http://www2.ohchr.org/english/law/prisonerwar.htm> (Last visited 12 May 2011).

### ***1.5.a. Recognition of the right to safe drinking water and sanitation***

#### **Implicit recognition**

***Rome Statute of the International Criminal Court, 17 July 1998***<sup>112</sup>

##### **Article 7: Crimes against humanity**

1. For the purpose of this Statute, "crime against humanity" [includes]

[...]

(b) Extermination;

[...]

2. For the purposes of paragraph 1:

[...]

(b) "Extermination" includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;

[...]

##### **Article 8: War crimes**

2. For the purpose of this Statute, "war crimes" means:

[...]

(xxv) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;

[...]

## **2. Findings of United Nations human rights treaty monitoring bodies**

### **Findings of United Nations Human Rights Treaty Monitoring Bodies**

This subsection lists excerpts of Concluding Observations which are relevant to the right to safe drinking water and sanitation, adopted by the UN Committee on Economic, Social and Cultural Rights (CESCR), the Committee on the Rights of the Child (CRC), and the Committee on the Elimination of Racial Discrimination (CERD).

States which are Party to the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination have a duty to periodically submit reports on the status of implementation of the respective instrument in their jurisdictions. The treaty monitoring bodies, the CESCR, CERD and CRC, then adopt "Concluding Observations" following the examination of a State Party's periodic report. Those Concluding Observations clarify some of the key concerns that treaty monitoring bodies have expressed regarding the realisation of the right to safe drinking water and sanitation. They include, in particular:

<sup>112</sup> Available at: <http://www2.ohchr.org/english/law/criminalcourt.htm> (Last visited 12 May 2011).

- States' negligence to pay extra attention to, and to ensure the provision of water and sanitation to vulnerable groups such as elderly, children, or those in neglected or deprived urban areas;
- disparities in water supply between indigenous and non- indigenous peoples and between urban and rural areas;
- non-utilisation of budget items reserved for social expenditures in the States' overall budgets;
- restrictions on access to water by persons living under foreign occupation; and
- situations in which large parts of the population remain without safe drinking water and basic sanitation.

In some cases, the CESCR recommended concrete State actions, such as the inclusion of squatter communities in a State's water supply network, or for example the need to establish water and sanitation services in Roma communities. The CESCR can also make recommendations on State measures to ensure that projects involving privatization of water supply provide for continued, guaranteed and affordable access to water by local or indigenous communities, and society's most disadvantaged and marginalized groups.

## **2.1. Concluding observations of the United Nations Committee on Economic, Social and Cultural Rights**

### ***2.1.a. Recognition of the right to safe drinking water and sanitation***

#### **Explicit recognition**

#### ***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. 04/12/98. E/C.12/1/Add.27.***<sup>113</sup>

42. The Committee urges the State party to recognize the existing Arab Bedouin villages, the land rights of the inhabitants and their right to basic services, including water.

#### ***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. 23/05/2003. E/C.12/1/Add.90.***<sup>114</sup>

41. The Committee strongly urges the State party to take immediate steps to ensure equitable access to and distribution of water to all populations living in the occupied territories, and in particular to ensure that all parties concerned participate fully and equally in the process of water management, extraction and distribution. In that

<sup>113</sup> Available at:

<http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/df35bf5b5ee94d01802566d5003dd6cd?Opendocument> (Last visited 13 May 2011).

<sup>114</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.90.En?Opendocument> (Last visited 13 May 2011)

connection, the Committee refers the State party to its General Comment No. 15 on the right to water (E/C.12/2002/11).

[...]

43. The Committee further urges the State party to recognize all existing Bedouin villages, their property rights and their right to basic services, in particular water, [...]

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Georgia. 19/12/2002. E/C.12/1/Add.83.***<sup>115</sup>

31. The Committee strongly recommends that the State party take effective measures, in consultation with relevant civil society organizations, to improve the situation of internally displaced persons, including the adoption of a comprehensive programme of action aiming at ensuring more effectively their rights to adequate housing, food and water, health services and sanitation, employment and education, and the regularization of their status in the State party.

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Madagascar. 16/12/2009. E/C.12/MDG/CO/2***<sup>116</sup>

25. [...] The Committee is also concerned that about 50 per cent of the population of the State party has no access to clean drinking water and adequate sanitation facilities, especially in rural areas. (art. 11)

[...]

The Committee also urges the State party to take immediate and effective measures to ensure that the population has affordable access to clean drinking water, in line with its general comment No. 15 (2002) on the right to water (arts. 11 and 12 of the Covenant).

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Bosnia and Herzegovina. 24/01/2006. E/C.12/BIH/CO/1.***<sup>117</sup>

27. The Committee is concerned about the lack of access to adequate drinking water in some parts of the Republika Srpska, the poor quality of water affecting many households, and the insufficient monitoring of water quality.

[...]

49. The Committee recalls the State party's obligation to ensure access to safe drinking water within, or in the immediate vicinity, of each household. It invites the State party to identify disaggregated indicators and appropriate national benchmarks in relation to the right to water, in line with the Committee's general comment No. 15 on the right to water, and to include information on the process of identifying such indicators and benchmarks in its next report.

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<sup>115</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.83.En?Opendocument> (Last visited 13 May 2011)

<sup>116</sup> Available at:

<http://tb.ohchr.org/default.aspx?country=mg> (Last visited 13 May 2011)

<sup>117</sup> Available at:

[http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/e28e94adf27d0abdc12571100030f0d1/\\$FILE/G0640201.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/e28e94adf27d0abdc12571100030f0d1/$FILE/G0640201.pdf) (Last visited 13 May 2011)



***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Libyan Arab Jamahiriya. 25/01/2006. E/C.12/LYB/CO/2.***<sup>118</sup>

18. The Committee notes with concern that 28 per cent of the population do not have sustainable access to an improved water source. It is also concerned that improvements achieved in the North of the country in terms of access to safe water have not yet been made available to the Amazigh population, in particular in the regions of Nefoussa and Zouara.

[...]

35. The Committee recommends, in line with general comment No. 15 (2002) on the right to water, that the State party increase its efforts to ensure the right of everyone to sufficient, safe, acceptable and physically accessible and affordable water for personal and domestic uses, without any discrimination. The Committee recommends that the State party take steps to implement the right of the Amazigh population to access safe water in the regions of Nefoussa and Zouara, and to report back to the Committee on this issue in its next report.

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Tajikistan. 24/11/2006. E/C.12/TJK/CO/1.***<sup>119</sup>

34. The Committee is concerned about the lack of sufficient access to safe drinking water in many households in Dushanbe, and the insufficient monitoring of water quality.

[...]

41. The Committee is deeply concerned about the decline of the budget for education. The Committee notes that the quality of education has deteriorated in recent years, especially in rural areas, due to the lack of adequate school infrastructure, i.e. furniture and supplies, textbooks, heating and fresh drinking water. The Committee also notes with concern the shortage of teachers who are increasingly forced due to low salaries to look for jobs outside the school system.

[...]

66. The Committee recalls the State party's obligation to ensure access to safe drinking water within, or in the immediate vicinity, of each household. It invites the State party to identify disaggregated indicators and appropriate national benchmarks in relation to the right to water, in line with the Committee's general comment No. 15 on the right to water, and to include information on the process of identifying such indicators and benchmarks in its next report.

**Implicit recognition**

***Concluding Observations of the Committee on Economic Social and Cultural Rights: Colombia. 28/12/95. E/C.12/1995/12.***<sup>120</sup>

200. The Committee also considers that the Colombian Government should:[...]

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<sup>118</sup> Available at:

[http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/3043288c9c153b38c125713200444b98/\\$FILE/G0640215.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/3043288c9c153b38c125713200444b98/$FILE/G0640215.pdf) (Last visited 13 May 2011)

<sup>119</sup> At: <http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.TJK.CO.1.pdf> (Last visited 13 May 2011).

<sup>120</sup> Available at:

<http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/975c32e988faf98a8025648a004ecd6f?Opendocument> (Last visited 13 May 2011)

(c) improve the supply of housing, especially low-cost housing for the benefit of the poorest sectors, in urban areas and also in rural areas, and allocate resources to provide the entire population with drinking-water and sewerage services.

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Serbia. 23/06/2005. E/C.12/1/Add.108.***<sup>121</sup>

59. The Committee recalls the State party's obligation to ensure access to safe drinking water within, or in the immediate vicinity, of each household. It invites the State party to identify disaggregated indicators and appropriate national benchmarks in relation to the right to water, in line with the Committee's General Comment No.15, and to include information on the process of identifying such indicators and benchmarks in its next report.

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Iraq. 12/12/97. E/C.12/1/Add.17.***<sup>122</sup>

21. The Committee notes with concern that, according to a survey conducted in 1995 by government agencies with the support of UNICEF, 50 per cent of the rural population in the central/southern part of Iraq had no access to potable water supplies. This figure increases to 90 per cent in the southern governorate of Thigar. In this respect, the Committee stresses that this situation does not conform with the provisions of article 11 of the Covenant on the right of the population to an adequate standard of living.

***Concluding Observations of the Committee on Economic, Social and Cultural Rights : Azerbaijan. 14/12/2004. E/C.12/1/Add.104.***<sup>123</sup>

52. The Committee strongly recommends the State party to continue to take effective measures through, inter alia, allocation of increased resources, to ensure protection of fundamental economic, social and cultural rights of the refugees and internally displaced persons, in particular with regard to adequate housing, food and water, health services and sanitation.

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Afghanistan. 21/05/2010. E/C.12/AFG/CO/2-4***<sup>124</sup>

35. The Committee notes with concern that a high percentage of the population in Afghanistan lack basic services such as drinking water, waste removal, sanitary facilities and electricity, [...]

The Committee urges the State party to provide rural and urban communities with appropriate systems for ensuring access to drinking water and to adequate sanitation infrastructure, in line with the Committee's general comment No. 15 (2002) on the right to water, [...]

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<sup>121</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.108.En?Opendocument> (Last visited 13 May 2011)

<sup>122</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.17.En?Opendocument> (Last visited 13 May 2011).

<sup>123</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/0/5ee95a301efb3475c1256f5b0043cbfd?Opendocument> (Last visited 13 May 2011)

<sup>124</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/428/76/PDF/G1042876.pdf?OpenElement> (Last visited 13 May 2011)

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Iraq. 12/12/97. E/C.12/1/Add.17.***<sup>125</sup>

36. The Committee recommends that every effort be made by the Government to ensure, through the development of adequate infrastructure in all parts of the country, access to potable water by the population as a whole, especially in the rural areas.

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Morocco. 04/09/2006. E/C.12/MAR/CO/3.***<sup>126</sup>

53. The Committee urges the State party to take all necessary measures to ensure that families living in poverty in shantytowns have access to public services. It recommends that the State party take due account of its general comments No. 3 (1990), on the nature of States parties' obligations (art. 2, para. 1, of the Covenant), No. 7 (1997), on the right to adequate housing (art. 11, para. 1, of the Covenant) and forced evictions, and No. 15 (2002), on the right to water (arts. 11 and 12 of the Covenant).

***2.1.b. Non-discrimination and attention to vulnerable and marginalized groups***

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Afghanistan. 21/05/2010. E/C.12/AFG/CO/2-4***<sup>127</sup>

35. The Committee notes with concern that a high percentage of the population in Afghanistan lack basic services such as drinking water, waste removal, sanitary facilities and electricity, [...]

The Committee urges the State party to provide rural and urban communities with appropriate systems for ensuring access to drinking water and to adequate sanitation infrastructure, [...], in particular for low-income, disadvantaged and marginalized individuals and groups[...]

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Azerbaijan. 22/12/97. E/C.12/1/Add.20.***<sup>128</sup>

23. The Committee expresses its alarm over the prolonged decline in the standards of living. This is evident in the rising level of poverty, the large proportion of the population living without safe drinking water, the lack of affordable housing, [...]

37. The Committee recommends that the Government address as a matter of utmost urgency the basic needs of the population, including safe drinking water, food, affordable housing and health care. The Committee requests detailed information on measures being taken or envisaged for the protection of vulnerable groups, including

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<sup>125</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.17.En?Opendocument> (Last visited 13 May 2011).

<sup>126</sup> Available at: [http://www2.ohchr.org/english/bodies/cescr/docs/E\\_C\\_12\\_MAR\\_CO\\_3\\_EN.doc](http://www2.ohchr.org/english/bodies/cescr/docs/E_C_12_MAR_CO_3_EN.doc) (Last visited 13 May 2011).

<sup>127</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/428/76/PDF/G1042876.pdf?OpenElement> (Last visited 13 May 2011)

<sup>128</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/5e2712360d12fd9d8025656b00459de5?Opendocument> (Last visited 13 May 2011)

especially children who do not have a family, single parents, the unemployed, and women who are victims of crimes of violence.

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Nepal. 16/01/2008. E/C.12/NPL/CO/2.***<sup>129</sup>

42. The Committee recommends that the State party take urgent steps to ensure food security and access to water for all, particularly those who belong to the most disadvantaged and marginalized groups. It recommends that agricultural policies aim effectively at improving not only productivity and commercialization but also access and distribution. In this regard, the Committee urges that specific measures be implemented with a view to enhancing the participation of the lower castes in the production, distribution and consumption of food. The Committee requests the State party in its third periodic report to provide detailed information about the extent of food insecurity, the groups most vulnerable to it, and the concrete measures envisaged to address it. In this regard, the Committee draws the attention of the State party to its General Comment No. 12 on the right to adequate food and General Comment No. 15 on the right to water.

43. The Committee recommends the immediate application of the Interim Constitution and laws prohibiting caste-based discrimination and segregation in cases of denial of access to public water sources. It recommends that access to public wells be closely monitored by the District Development Committees or by another appropriate local body.

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. 04/12/98. E/C.12/1/Add.27.***<sup>130</sup>

10. The Committee expresses concern that excessive emphasis upon the State as a "Jewish State" encourages discrimination and accords a second-class status to its non-Jewish citizens. The Committee notes with concern that the Government of Israel does not accord equal rights to its Arab citizens, although they comprise over 19 per cent of the total population. This discriminatory attitude is apparent in the lower standard of living of Israeli Arabs as a result, *inter alia*, of lack of access to housing, water, [...]

[...]

24. [...] The Committee also notes with concern that while the Government annually diverts millions of cubic metres of water from the West Bank's Eastern Aquifer Basin, the annual per capita consumption allocation for Palestinians is only 125 cubic metres while settlers are allocated 1,000 cubic metres per capita.

[...]

26. The Committee notes with deep concern that a significant proportion of Palestinian Arab citizens of Israel continue to live in unrecognized villages without access to water, electricity, sanitation and roads. [...]

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<sup>129</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/401/48/PDF/G0840148.pdf?OpenElement> (Last visited 13 May 2011)

<sup>130</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/df35bf5b5ee94d01802566d5003dd6cd?Opendocument> (Last visited 13 May 2011).

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. 23/05/2003. E/C.12/1/Add.90.***<sup>131</sup>

16. The Committee is deeply concerned about the continuing difference in treatment between Jews and non-Jews, in particular Arab and Bedouin communities, with regard to their enjoyment of economic, social and cultural rights in the State party's territory. The Committee reiterates its concern that the "excessive emphasis upon the State as a 'Jewish State' encourages discrimination and accords a second-class status to its non- Jewish citizens" (1998 concluding observations, para. 10) This discriminatory attitude is apparent in the continuing lower standard of living of Israeli Arabs as a result, inter alia, [...] lack of access to housing, water, [...] In this regard, the Committee expresses its concern that the State party's domestic legal order does not enshrine the general principles of equality and non-discrimination.

[...]

25. The Committee is particularly concerned about limited access to, distribution and availability of water for Palestinians in the occupied territories, as a result of inequitable management, extraction and distribution of shared water resources, which are predominantly under Israeli control.

[...]

27. The Committee continues to be concerned about the situation of Bedouins residing in Israel, and in particular those living in villages that are still unrecognized (1998 concluding observations, para. 28) Despite measures by the State party to close the gap between the living conditions of Jews and Bedouins in the Negev, the quality of living and housing conditions of the Bedouins continue to be significantly lower, with limited or no access to water, electricity and sanitation. [...]

[...]

41. The Committee strongly urges the State party to take immediate steps to ensure equitable access to and distribution of water to all populations living in the occupied territories, and in particular to ensure that all parties concerned participate fully and equally in the process of water management, extraction and distribution. In that connection, the Committee refers the State party to its General Comment No. 15 on the right to water.

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Algeria. 17/05/2010. E/C.12/DZA/CO/4***<sup>132</sup>

19. The Committee is concerned that many internally displaced persons, following the violence between 1992 and 2002, continue to live in slums and that return to their areas of origin is slow due to, among other factors, the inadequate standard of living in those rural areas (art. 11).

The Committee recommends that the State party implement measures to facilitate the return of internally displaced persons to their areas of origin, including by taking steps to increase the standard of living in rural areas, focusing in particular on access to safe drinking water, general infrastructure and access to quality health-care services.

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<sup>131</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.90.En?Opendocument> (Last visited 13 May 2011)

<sup>132</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/428/69/PDF/G1042869.pdf?OpenElement> (Last visited 13 May 2011)

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Georgia. 19/12/2002. E/C.12/1/Add.83.***<sup>133</sup>

12. The Committee expresses deep concern about the deplorable situation of internally displaced persons in the State party. The State party's efforts to provide basic services to this disadvantaged group and special legislation adopted to that end have succeeded only partially in meeting the most basic needs of internally displaced persons, particularly with regard to employment, social security, adequate housing and access to water, electricity, basic health services and education.

[...]

23. The Committee expresses concern about the poor living conditions of the majority of the State party's population, including an inadequate supply of water [...], which particularly affect the most disadvantaged and marginalized groups of society, such as older persons, persons with disabilities, internally displaced persons, prisoners and persons living in poverty.

[...]

31. The Committee strongly recommends that the State party take effective measures, in consultation with relevant civil society organizations, to improve the situation of internally displaced persons, including the adoption of a comprehensive programme of action aiming at ensuring more effectively their rights to adequate housing, food and water, health services and sanitation, employment and education, and the regularization of their status in the State party.

[...]

40. The Committee urges the State party to continue its efforts to improve the living conditions of its population, in particular by ensuring that the infrastructure for water, [...] is improved, and by paying priority attention to the needs of the most disadvantaged and marginalized groups of society, such as older persons, persons with disabilities, internally displaced persons, prisoners and persons living in poverty.

***Concluding observations of the Committee on Economic, Social and Cultural Rights: Hungary. 22/05/2007. E/C.12/HUN/CO/3.***<sup>134</sup>

22. The Committee is deeply concerned that one-fifth of the Roma in the State party live in slum settlements, often without access to running water, adequate sewerage

...

[...]

48. The Committee recommends that the State party strengthen preventive health care services and improve public services, such as clean water, sewerage, waste disposal and sanitation, particularly in Roma communities [...]

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: The former Yugoslav Republic of Macedonia. 24/11/2006. E/C.12/MKD/CO/1.***<sup>135</sup>

23. The Committee is deeply concerned about reports that 70 percent of the Roma live in informal settlements, which often lack basic infrastructure and services such as

<sup>133</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.83.En?Opendocument> (Last visited 13 May 2011)

<sup>134</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/401/75/PDF/G0840175.pdf?OpenElement> (Last visited 13 May 2011)

<sup>135</sup> Available at: <http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.MKD.CO.1.pdf> (Last visited 13 May 2011).

electricity, adequate water, sewage removal, garbage collection or paved roads, and that most Roma are without legal title to the places where they reside and are exposed to a constant threat of eviction.

[...]

43. The Committee urges the State Party to ensure, by legalizing and improving the infrastructure and amenities of existing Roma settlements or through social housing programmes, that all Roma have access to adequate and affordable housing, security of tenure, electricity, adequate drinking water, sanitation and other essential services, including safe access to roads. [...] It also urges the State party to ensure that adequate alternative housing is provided whenever forced evictions take place, in line with the Committee's general comment No. 7 (1997), and to include updated statistical data on an annual basis on the number of forced evictions, arrangements for alternative housing and the extent of homelessness, as well as information on the measures taken to legalize and improve the infrastructure and amenities of Roma settlements, in its next periodic report.

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Nepal. 24/09/2001. E/C.12/1/Add.66.***<sup>136</sup>

27. The Committee notes with regret that 29 per cent of the population has no access to safe water, 90 per cent has no access to health services and 84 per cent has no access to sanitation.

[...]

60. The Committee recommends that the State party ensure that projects involving privatization of water supply provide for continued, assured and affordable access to water by local communities, indigenous people, and the most disadvantaged and marginalized groups of society.

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Serbia. 23/06/2005. E/C.12/1/Add.108.***<sup>137</sup>

30. The Committee is gravely concerned about the poor conditions in which thousands of Roma families live in sub-standard informal settlements without access to basic services such as electricity, running water, sewage facilities, medical care and schools.

[...]

32. The Committee is concerned about the lack of direct access to safe drinking water in 17.5 per cent of rural households in Serbia and about the poor quality of water in central Serbia.

[...]

57. The Committee urges the State party to ensure, by legalizing and improving the infrastructure of existing settlements or through social housing programmes, that Roma have access to adequate and affordable housing with legal security of tenure, access to safe drinking water, adequate sanitation, electricity and other essential services.

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<sup>136</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.66.En?Opendocument> (Last visited 13 May 2011)

<sup>137</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.108.En?Opendocument> (Last visited 13 May 2011)

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Ukraine. 23/11/2007. E/C.12/UKR/CO/5.***<sup>138</sup>

25. The Committee notes with concern that many Roma live in informal settlements and camps which lack basic infrastructures and services such as safe water, electricity, gas, heating, sewage, garbage disposal and roads, without legal security of tenure and under constant threat of eviction.

[...]

47. The Committee recommends that the State party allocate sufficient funds for the implementation of the Programme for the Resettlement and Integration of Formerly Deported Persons and ensure that formerly deported persons have equal access to suitable plots of land and adequate housing and to effective remedies for claiming such land and housing. It also recommends that the State party proceed with the adoption of the draft law on compensation of formerly deported persons. The State party should consider repealing the recent law threatening illegal land occupants with several years' imprisonment. It should also ensure that Crimean Tatars living in settlements enjoy legal security of tenure and access to basic infrastructures, including safe water, electricity, gas, heating, sewage and garbage disposal, and roads.

48. The Committee urges the State party to ensure, by legalizing and intensifying its efforts to improve the infrastructures of Roma settlements or through social housing programmes, that all Roma have access to adequate and affordable housing, legal security of tenure, safe water, electricity, gas, heating, sewage and garbage disposal, and roads. [...]

***Concluding observations of the Committee on Economic, Social and Cultural Rights: Canada. 10/12/98. E/C.12/1/Add.31.***<sup>139</sup>

17. The Committee is greatly concerned at the gross disparity between Aboriginal people and the majority of Canadians with respect to the enjoyment of Covenant rights. There has been little or no progress in the alleviation of social and economic deprivation among Aboriginal people. In particular, the Committee is deeply concerned at the shortage of adequate housing, [...]. Another concern is the failure to provide safe and adequate drinking water to Aboriginal communities on reserves. The delegation of the State Party conceded that almost a quarter of Aboriginal household dwellings required major repairs and lacked basic amenities.

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada. 22/05/2006. E/C.12/CAN/CO/4-E/C.12/CAN/CO/5.***<sup>140</sup>

15. [...] The Committee is also concerned by the significant disparities still remaining between Aboriginal people and the rest of the population in the areas of employment, access to water, health, housing and education, and by the failure of the State party to fully acknowledge the barriers faced by African Canadians in the enjoyment of their rights under the Covenant.

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<sup>138</sup> Available at: <http://www2.ohchr.org/english/bodies/cescr/docs/cescr39/E.C.12.UKR.CO.5.pdf> (Last 13 May 2011).

<sup>139</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/0/c25e96da11e56431802566d5004ec8ef?Opendocument> (Last visited 13 May 2011)

<sup>140</sup> Available at:

[http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/87793634eae60c00c12571ca00371262/\\$FILE/G0642783.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/87793634eae60c00c12571ca00371262/$FILE/G0642783.pdf) (Last visited 13 May 2011)



[...]

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.

[...]

64. The Committee strongly recommends that the State party review its position on the right to water, in line with the Committee's general comment No. 15 (2002) on the right to water, so as to ensure equal and adequate access to water for people living in the State party, irrespective of the province or territory in which they live or the community to which they belong.

***Concluding observations of the Committee on Economic Social and Cultural Rights: Costa Rica. 04/01/2008. E/C.12/CRI/CO/4.***<sup>141</sup>

15. The Committee regrets that indigenous communities and Afro-descendants suffer from higher levels of poverty and unemployment than the national average. Additionally, indigenous communities suffer from high illiteracy rates, limited access to water, housing, health and education.

[...]

26. The Committee is concerned that, despite the State party's efforts to address housing shortage, a high percentage of dwellings, especially those inhabited by indigenous peoples, Afro-descendants and migrants, is in poor condition, often without access to drinking water and adequate sanitation, and that many of these communities still live in slums and squats, sometimes on river banks and in other high-risk areas. The Committee is also concerned about the lack of disaggregated data on the number of forced evictions in the State party.

27. The Committee notes with concern the potential impact of the entry into force of the Central American Free Trade Agreement (CAFTA) on the State party's obligations under the Covenant and, in particular, on traditional agriculture, labour rights, access to health, social security and the intellectual property regimes protecting, inter alia, access to generic medicines, biodiversity, water and the right of indigenous communities associated to these resources.

[...]

35. The Committee urges the State party to take all appropriate measures to ensure [...] that the indigenous communities have proper access to water, housing, health and education.

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Panama. 24/09/2001. E/C.12/1/Add.64.***<sup>142</sup>

12. Notwithstanding the absence of legal discrimination and the rights granted to indigenous communities by the Constitution, the Committee is deeply concerned about the persisting disadvantage faced in practice by members of indigenous communities in Panama, and in particular about the marked disparities in the levels

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<sup>141</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/400/25/PDF/G0840025.pdf?OpenElement> (Last visited 13 May 2011)

<sup>142</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.64.En?Opendocument> (Last visited 13 May 2011)

of poverty and literacy and access to water, employment, health, education and other basic social services. [...]

28. The Committee reiterates its recommendation encouraging the State party to consider ratifying the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). It urges the State party to pay particular attention to improving poverty and literacy rates and access to water, employment, health, education and other basic social services for indigenous peoples. [...]

***Concluding observations of the Committee on Economic, Social and Cultural Rights: Yemen. 12/12/2003. E/C.12/1/Add.92.***<sup>143</sup>

18. The Committee is concerned about the living conditions of prisoners and detainees in the State party, especially women, with regard to access to health-care facilities, adequate food and safe drinking water.

[...]

37. The Committee urges the State party to take effective legislative or other measures to provide adequate health-care facilities, adequate food and safe drinking water to prisoners and detainees, especially women. The Committee also urges the State party to ensure the professional and social reintegration of women ex-prisoners, through vocational training.

***Concluding observations of the Committee on Economic, Social and Cultural Rights: Ukraine. 23/11/2007. E/C.12/UKR/CO/5.***<sup>144</sup>

49. The Committee recommends that the State party take immediate measures to ensure adequate occupancy levels and access to safe water, sanitation, food, bedding, natural light, ventilation, and out-of-cell activities in prisons, detention centres and centres for refugees and asylum-seekers, [...]

***2.2.c. Participation and access to information***

***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. 23/05/2003. E/C.12/1/Add.90.***<sup>145</sup>

41. The Committee strongly urges the State party to take immediate steps to ensure equitable access to and distribution of water to all populations living in the occupied territories, and in particular to ensure that all parties concerned participate fully and equally in the process of water management, extraction and distribution. In that connection, the Committee refers the State party to its General Comment No. 15 on the right to water.

***Concluding observations of the Committee on Economic, Social and Cultural Rights: Mexico. 09/06/2006. E/C.12/MEX/CO/4.***<sup>146</sup>

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<sup>143</sup> Available at:

<http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/85cf0bfd6e510cdec1256e00003f0fbf?Opendocument> (Last visited 13 May 2011)

<sup>144</sup> At: <http://www2.ohchr.org/english/bodies/cescr/docs/cescr39/E.C.12.UKR.CO.5.pdf> (Last visited 13 May 2011)

<sup>145</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.90.En?Opendocument> (Last visited 13 May 2011)

<sup>146</sup> Available at:

[http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/c51b8e7f740d2a42c12571e1004e03e5/\\$FILE/G0642555.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/c51b8e7f740d2a42c12571e1004e03e5/$FILE/G0642555.pdf) (Last visited 13 May 2011)

[...]

28. The Committee urges the State party to ensure that the indigenous and local communities affected by the La Parota hydroelectric dam project or other large-scale projects on the lands and territories which they own or traditionally occupy or use are duly consulted, and that their prior informed consent is sought, in any decision-making processes related to these projects affecting their rights and interests under the Covenant, in line with ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. The Committee also urges the State party to recognize the rights of ownership and possession of indigenous communities to the lands traditionally occupied by them, to ensure that adequate compensation and/or alternative accommodation and land for cultivation are provided to the indigenous communities and local farmers affected by the construction of the La Parota dam or other construction projects under the Plan Puebla- Panama, and that their economic, social and cultural rights are safeguarded. In this regard, the State party is referred to the Committee's general comments Nos. 14 and 15 on the right to the highest attainable standard of health and on the right to water.

#### **2.1.e. Accessibility of water and sanitation**

##### ***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Colombia. 07/06/10. E/C.12/COL/CO/5***<sup>147</sup>

23. The Committee is concerned that access to safe drinking water and sanitation is not universal and that, in some rural areas, especially in the Chocò region, almost 90 per cent of the population do not have access to safe drinking water.

The Committee calls upon the State party to adopt a national water policy in order to ensure universal access to safe drinking water, in particular to persons living in rural areas.

##### ***Concluding Observations of the Committee on Economic, Social and Cultural Rights: Uruguay. 01/12/10. E/C.12/URY/CO/3-4***<sup>148</sup>

20. The Committee is concerned that, despite the measures taken by the State party to improve access to housing, including the Five-Year Housing Plan (2005–2009), a high number of irregular settlements continue to exist in urban and suburban areas, many of which lack access to proper sanitation and are hazardous due to structural defects. [...]

The Committee urges the State party to strengthen its efforts to provide access to adequate housing, with a focus on adequate funding for the Five-Year Housing Plan, [...] and to the provision of adequate sanitation facilities.

#### **2.1.g. Water availability and allocation**

##### ***Concluding observations of the Committee on Economic, Social and Cultural Rights: Yemen. 12/12/2003. E/C.12/1/Add.92.***<sup>149</sup>

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<sup>147</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/428/51/PDF/G1042851.pdf?OpenElement> (Last visited 13 April 2011)

<sup>148</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/470/09/PDF/G1047009.pdf?OpenElement> (Last visited 13 May 2011)

19. The Committee is concerned about the persisting water crisis which constitutes an alarming environmental emergency in the State party, and which prevents access to safe and affordable drinking water, particularly for the disadvantaged and marginalized groups of society, and for rural areas.

[...]

38. The Committee further urges the State party to introduce strategies, plans of action, and legislative or other measures to address the scarcity of water problems, in particular the sustainable management of the available water resources. The Committee recommends that effective water management strategies and measures be undertaken in urban setting, exploring possibilities for alternative water treatment and developing ecological dry sanitation methods in rural settings. The Committee requests the State party to report on these issues, in its next periodic report, bearing in mind the Committee's general comment No. 15 (2002) on the right to water, by providing comparative and disaggregated data.

## **2.2. Concluding Observations of the United Nations Committee on the Elimination of Racial Discrimination**

### ***2.2.b Non-discrimination and attention to vulnerable and marginalised groups***

#### ***Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel. 14/06/2007. CERD/C/ISR/CO/13.***<sup>150</sup>

35. The Committee notes with concern the application in the Occupied Palestinian Territories of different laws, policies and practices applied to Palestinians on the one hand, and to Israelis on the other hand. It is concerned, in particular, by information about unequal distribution of water resources to the detriment of Palestinians, [...] The State party should ensure equal access to water resources to all without any discrimination.[...]

#### ***Concluding observations of the Committee on the Elimination of Racial Discrimination: Nepal. 28/04/2004. CERD/C/64/CO/5.***<sup>151</sup>

12. The Committee remains deeply concerned at the persistence of the de facto caste based discrimination and the culture of impunity that apparently permeates the higher strata of a hierarchical social system. In particular, it is concerned at information on the existence of segregated residential areas for Dalits, social exclusion of inter-caste couples, restriction to certain types of employment, and denial of access to public spaces, places of worship and public sources of food and water, as well as at allegations that public funds were used for the construction of separate water taps for Dalits.

The Committee recommends that the State party, as a matter of priority, take measures to prevent, prohibit and eliminate private and public practices that

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<sup>149</sup> Available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/85cf0bfd6e510cdec1256e00003f0fbf?Opendocument> (Last visited 13 May 2011)

<sup>150</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/424/79/PDF/G0742479.pdf?OpenElement> (Last visited 13 May 2011)

<sup>151</sup> Available at: [http://www.unhchr.ch/tbs/doc.nsf/0/d0f5622d3601a523c1256e59006084a0/\\$FILE/G0441080.pdf](http://www.unhchr.ch/tbs/doc.nsf/0/d0f5622d3601a523c1256e59006084a0/$FILE/G0441080.pdf) (Last visited 26 January 2012)

constitute segregation of any kind, and make determined efforts to ensure the practical and effective implementation of these measures. The Committee further requests that information be included in the next periodic report on any follow-up measures taken by the State party to general recommendation XXIX on descent-based discrimination.

***Concluding observations of the Committee on the Elimination of Racial Discrimination: Slovakia. 01/05/2002. CERD/C/304/Add.110.***<sup>152</sup>

14. The Committee is concerned that a disproportionately large number of Roma suffer higher mortality rates, have poorer nutrition levels, and low levels of awareness of maternal and child health. Moreover, the Committee is concerned about poor access to clean drinking water, adequate sanitation, and high exposure to environmental pollution in Roma settlements. The Committee recommends that the State party take all necessary measures to ensure that the Roma enjoy the full right to health and health care. The Committee recommends that the State party prioritize and target social services for persons belonging to the most vulnerable groups.

***Concluding observations of the Committee on the Elimination of Racial Discrimination: Slovakia. 10/12/2004. CERD/C/65/CO/7.***<sup>153</sup>

11. The Committee is alarmed at the critical health situation of some Roma communities, which is largely a consequence of their poor living conditions. The Committee recommends that the State party continue to implement programmes and projects in the field of health for Roma, bearing in mind their disadvantaged situation resulting from extreme poverty and low levels of education; to this end, the Committee encourages the State party to take further measures to address the issues of drinking water supplies and sewage disposal systems in Roma settlements.

***2.2.c. Participation and access to information***

***Concluding observations of the Committee on the Elimination of Racial Discrimination: Cameroon. 30/03/2010. CERD/C/CMR/CO/15-18***<sup>154</sup>

11. The Committee recommends that the State party [...]

(b) Consult the indigenous people concerned and cooperate with them through their own representative institutions, in order to obtain their free and informed consent, before approving any project that affects their lands, territories or other resources, in particular with regard to the development, use or exploitation of mineral, water or other resources;

***Concluding observations of the Committee on the Elimination of Racial Discrimination: Guatemala. 08/05/2010. CERD/C/GTM/CO/12-13***<sup>155</sup>

11.

[...] the Committee, is deeply concerned about the growing tension among indigenous peoples occasioned by the exploitation of natural resources in the

<sup>152</sup> Available at: <http://www.unhcr.org/refworld/country,,CERD,CONCOBSERVATIONS,SVK,4562d8b62,,0.html> (Last visited 13 May 2011)

<sup>153</sup> Available at: <http://www.unhcr.org/refworld/country,,CERD,CONCOBSERVATIONS,SVK,4562d8b62,,0.html> (Last visited 13 May 2011)

<sup>154</sup> Available at: <http://www.unhcr.org/refworld/publisher,CERD,,,4c15e8f92,0.html> (Last visited 13 May 2011)

<sup>155</sup> Available at: <http://tb.ohchr.org/default.aspx?country=gt> (Last visited 13 May 2011)

country. The Committee reiterates its concern at the fact that the State party continues to allow indigenous peoples to be dispossessed of land that has historically belonged to them, [...], and that indigenous peoples' right to be consulted prior to the exploitation of natural resources located in their territories is not fully respected in practice.

The Committee recommends that the State party:

- (a) Establish suitable procedures, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169, to effectively consult the communities that may be affected by development projects or the exploitation of natural resources with a view to obtaining their free, prior and informed consent. The Committee reminds the State party that the absence of implementing regulations for Convention No. 169 does not prevent it from conducting prior consultations. In the light of its general recommendation No. 23 (para. 4 (d)), the Committee recommends that the State party consult the indigenous population groups concerned at each stage of the process and that it obtain their consent before executing projects involving the extraction of natural resources;
- (b) Amend the laws governing the exploitation of natural resources so as to establish procedures for the prior consultation of relevant population groups regarding the impact of such projects on their communities;
- (c) Expedite the adoption of the Indigenous Peoples Consultation Act proposed by indigenous peoples and the amendment of the Mining Act to include a chapter on consultations prior to the issuance of mining permits;
- (d) Ensure the effective application of the alternative methods for the settlement of disputes, such as mediation, negotiation, conciliation and arbitration, established by the Office of the Secretary for Agrarian Affairs. The State party should also ensure that these procedures are in line with international standards relating to human rights and indigenous peoples' rights and specifically with ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples;
- (e) Strengthen the implementation of round-table dialogues at which representatives of the Office of the Secretary for Agrarian Affairs take an active part in a range of forums and ensure that those dialogues give rise to specific, viable and verifiable agreements that are effectively implemented;
- (f) In the exceptional cases in which the relocation of indigenous peoples is considered necessary, ensure the observance of article 16 paragraph 2, of ILO Convention No. 169 and article 10 of the United Nations Declaration on the Rights of Indigenous Peoples, which require free and informed consent and fair and equitable compensation, and provide relocation sites equipped with basic utilities, such as drinking water, electricity, and washing and hygiene facilities, and with appropriate services, including schools, health-care centres and means of transportation.

## **2.3. Concluding Observations of the United Nations Committee on the Rights of the Child<sup>156</sup>**

### **2.3.a. Recognition of right to safe drinking water and sanitation**

#### **Explicit recognition**

##### ***Concluding Observations of the Committee on the Rights of the Child: Guatemala. 01/10/2010. CRC/C/GTM/CO/3-4<sup>157</sup>***

78. The Committee recommends that the State party take all necessary measures to ensure an adequate standard of living for all children, including adequate housing, food and water.

##### ***Concluding Observations of the Committee on the Rights of the Child: Ethiopia. 01/11/2006. CRC/C/ETH/CO/3.<sup>158</sup>***

61. The Committee is deeply concerned about the widespread poverty in the State party and the increasingly large numbers of children who do not enjoy the right to an adequate standard of living, including access to food, clean drinking water, adequate housing and latrines.

62. The Committee recommends that, in accordance with article 27 of the Convention, the State party reinforce its efforts to provide support and material assistance, with a particular focus on the most marginalized and disadvantaged families, and to guarantee the right of children to an adequate standard of living. [...]

##### ***Concluding Observations of the Committee on the Rights of the Child: Kenya. 19/06/2007. CRC/C/KEN/CO/2.<sup>159</sup>***

55. The Committee remains deeply concerned at the widespread poverty and the increasingly high number of children who do not enjoy the right to an adequate standard of living, including access to food, clean drinking water, adequate housing and latrines. The Committee is particularly concerned at the situation of children belonging to disadvantaged families, rural communities, orphans, children infected with HIV and/or affected by HIV/AIDS, and street children. [...]

##### ***Concluding Observations of the Committee on the Rights of the Child: Niger. 13/06/2002. CRC/C/15/Add.179.<sup>160</sup>***

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<sup>156</sup> The following overview over the Concluding Observations of the Committee on the Rights of the Child (CRC) relevant for the right to water and sanitation is not exhaustive. The complete Concluding Observations of the CRC are available at: <http://www.ohchr.org/english/bodies/crc/sessions.htm> (go to [www.ohchr.org](http://www.ohchr.org), go to "Human rights bodies" > "All human rights bodies", click "Committee on the Rights of the Child", under "The Committee and its work", click "Sessions" > 65).

<sup>157</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/459/58/PDF/G1045958.pdf?OpenElement> (Last visited 13 May 2011).

<sup>158</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/450/09/PDF/G0645009.pdf?OpenElement> (Last visited 13 May 2011).

<sup>159</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/425/08/PDF/G0742508.pdf?OpenElement> (Last visited 13 May 2011).

<sup>160</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G02/433/48/PDF/G0243348.pdf?OpenElement> (Last visited 13 May 2011).

56. The Committee is concerned about widespread poverty and the increasingly high numbers of children who do not enjoy the right to an adequate standard of living, including access to clean drinking water, adequate housing and latrines.

***Concluding Observations of the Committee on the Rights of the Child: Uganda. 23/11/2005. CRC/C/UGA/CO/2.***<sup>161</sup>

57. [...] However, the Committee remains deeply concerned about the widespread poverty in the State party, particularly in northern Uganda, and the increasingly large numbers of children who do not enjoy the right to an adequate standard of living, including access to food, clean drinking water, adequate housing and latrines.

***Concluding Observations of the Committee on the Rights of the Child: Zambia. 02/07/2003. CRC/C/15/Add.206.***<sup>162</sup>

54. The Committee is concerned about the widespread poverty, especially among female headed households, in the State party and the increasingly high number of children who do not enjoy the right to an adequate standard of living, including access to clean drinking water, adequate housing and latrines.

***Concluding Observations of the Committee on the Rights of the Child: Azerbaijan. 17/03/2006. CRC/C/AZE/CO/2.***<sup>163</sup>

55. The Committee is concerned that poor living conditions, which affect many families, seriously limit children's full enjoyment of their rights. The Committee is also concerned that over 40 per cent of the population lack access to potable water, including the vast majority of refugees and IDPs.

56. The Committee recommends that the State party take all necessary measures to provide support and material assistance to economically disadvantaged families, including the implementation of the Poverty Reduction Strategy Paper (PRSP) and targeted programmes with regard to the most needy group of families in order to guarantee the right of all children to an adequate standard of living. In particular, the Committee recommends that the State party ensure universal access to sanitation and potable water.

***2.3.b. Non-discrimination and attention to vulnerable and marginalized groups***

***Concluding Observations of the Committee on the Rights of the Child: Sri Lanka. 19/10/2010. CRC/C/LKA/CO/3-4***<sup>164</sup>

60 [...] While noting that programmes are being implemented to address water supply needs, the Committee expresses concern that access to safe water and

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<sup>161</sup> Available at:

[http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/a9218a03bf6eab08c12570d7004b2269/\\$FILE/G0545118.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/a9218a03bf6eab08c12570d7004b2269/$FILE/G0545118.pdf) (Last visited 13 May 2011)

<sup>162</sup> At:

[http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/1a481056be1936eac1256da5004d40ea/\\$FILE/G0342771.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/1a481056be1936eac1256da5004d40ea/$FILE/G0342771.pdf) (Last visited 13 May 2011).

<sup>163</sup> Available at: <http://www.unhcr.org/refworld/country,,CRC,,AZE,,45377ed20,0.html> (Last visited 13 May 2011)

<sup>164</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/458/08/PDF/G1045808.pdf?OpenElement> (Last visited 13 May 2011)



sanitation for slum dwellers, internally displaced persons (IDPs) and marginalized populations still has to be addressed.

61. The Committee recommends that the State party ensure that poverty alleviation and social protection programmes are adequately targeted to the poorest families and implemented in a more child-centred and equitable manner, with special attention to the most disadvantaged groups, including children and families living in rural areas, child workers and children in single-parent households. Special efforts should be made to inform families living in poverty and those caring for the children of migrant mothers of the available support programmes and services in order to increase their access. The Committee further recommends that the State party strengthen its efforts to address the water supply needs in the conflict-affected districts.

***Concluding Observations of the Committee on the Rights of the Child: The Philippines. 02/10/2009. CRC/C/PHL/CO/3-4***<sup>165</sup>

59 (...) The Committee also remains concerned at the regional disparities with regard to access to safe drinking water and sanitation.

60. The Committee recommends that the State party:

(c) Take effective measures to improve access to safe drinking water and sanitation facilities, particularly in the rural areas and slums;

***Concluding Observations of the Committee on the Rights of the Child: Peru. 14/03/2006. CRC/C/PER/CO/3.***<sup>166</sup>

72. The Committee recommends that the State party continue and strengthen its efforts to bring the administration of juvenile justice fully in line with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in the field of juvenile justice, [...] In this regard, the Committee recommends that the State party:

[...]

(c) Improve the conditions of detention of persons below 18, notably by complying with the international standards as to surface area, ventilation, fresh air, natural and artificial light, proper food, drinking water and hygienic conditions;

[...]

***Concluding Observations of the Committee on the Rights of the Child: Slovakia. 10/07/2007. CRC/C/SVK/CO/2.***<sup>167</sup>

55. [...] The Committee remains concerned, however, that some Roma communities do not have equal access to adequate housing, have limited or no access to basic public services, live in substandard, racially segregated slum settlements exposed to environmental hazards and do not have access to clean drinking water. [...]

56. The Committee recommends that the State party take all necessary measures to ensure that all communities, including Roma communities, are given equal access to

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<sup>165</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/456/32/PDF/G0945632.pdf?OpenElement> (Last visited 13 May 2011)

<sup>166</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/408/87/PDF/G0640887.pdf?OpenElement> (Last visited 13 May 2011).

<sup>167</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/429/29/PDF/G0742929.pdf?OpenElement> (Last visited 13 May 2011).

adequate housing, sanitation and infrastructure, are protected from environmental hazards and are given access to clean air, land and water. [...]

***Concluding Observations of the Committee on the Rights of the Child: Maldives. 08/06/2007. CRC/C/MDV/CO/3.***<sup>168</sup>

77. The Committee is concerned that gender biases and stereotypes in school textbooks, curricula and school management as well as the lack of appropriate sanitary facilities, including separate toilets, impede the full participation of girls in education, particularly in secondary schools.

78. In the light of article 28 of the Convention, Committee recommends that the State party continue to allocate adequate financial, human and technical resources in order to:

[...]

(c) [...] ensure the provision of girls' sanitary facilities in all schools [...]

***2.3.c. Participation and access to information***

***Concluding Observations of the Committee on the Rights of the Child: Burundi. 01/10/2010. CRC/C/BDI/CO/2***<sup>169</sup>

61. The Committee further recommends that the State party rehabilitate damaged water supply systems, [...] and promote better community participation in water-point management.

***2.3.e. Accessibility of water and sanitation***

***Concluding Observations of the Committee on the Rights of the Child: Lao People's Democratic Republic. 02/02/2011. CRC/C/LAO/CO/2***<sup>170</sup>

58. [...]The Committee further recommends that the State party take appropriate measures to ensure that the population has access to treated drinking water, and raise awareness among the population about the importance of clean drinking water, as well as educate the general public on how to treat water in order to make it suitable for consumption.

***Concluding Observations of the Committee on the Rights of the Child: Burkina Faso. 29/01/2010. CRC/C/BFA/CO/3-4***<sup>171</sup>

55. The Committee recommends that the State party continue to prioritize the allocation of financial and human resources to the health sector, [...], including through:

(b) Strengthening its efforts to further reduce infant and child mortality, especially by focusing on preventive measures and treatment, including vaccination uptakes,

<sup>168</sup> Available at: <http://www.crin.org/resources/infoDetail.asp?ID=13630&flag=legal> (Last visited 26 January 2012).

<sup>169</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/458/29/PDF/G1045829.pdf?OpenElement> (Last visited 13 May 2011)

<sup>170</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/419/69/PDF/G1141969.pdf?OpenElement> (Last visited 15 May 2011)

<sup>171</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/406/17/PDF/G1040617.pdf?OpenElement> (Last visited 15 May 2011)

improved nutrition and sanitary conditions, greater access to clean drinking water, and the management of communicable diseases and malaria;

***Concluding Observations of the Committee on the Rights of the Child: Cameroon. 28/02/2010. CRC/C/CMR/CO/2***<sup>172</sup>

54. The Committee strongly recommends that the State party:

(h) Undertake additional measures to increase access to safe drinking water and to improve sanitation;

***2.3.g. Water availability and allocation***

***Concluding Observations of the Committee on the Rights of the Child: Mozambique. 23/12/2009. CRC/C/MOZ/CO/2***<sup>173</sup>

70. The Committee urges the State party to develop programmes of major improvement of the social security system, housing schemes in rural and peri-urban areas, home sanitation facilities and access to clean drinking water, (...)

***Concluding Observations of the Committee on the Rights of the Child: Burundi. 01/10/2010. CRC/C/BDI/CO/2***<sup>174</sup>

60 The Committee is also concerned at the low level of access to clean water and sanitation which represents the major cause of diarrhoea amongst children and that access to clean water is limited, particularly in rural areas.

61. The Committee further recommends that the State party rehabilitate damaged water supply systems, including improvement of unprotected springs, install water supply systems in priority areas where households use surface water and promote better community participation in water-point management.

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<sup>172</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/407/35/PDF/G1040735.pdf?OpenElement> (Last visited 15 May 2011)

<sup>173</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/461/02/PDF/G0946102.pdf?OpenElement> (Last visited 15 May 2011)

<sup>174</sup> Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/458/29/PDF/G1045829.pdf?OpenElement> (Last visited 15 May 2011)

## Part 2: Regional sources

### Regional Human Rights Treaties

Africa, the Americas, Europe and the Middle-East have adopted regional treaties which implement the right to safe drinking water and sanitation. Regional instruments only apply in their specific region, and are useful in supplementing international instruments, especially where the scope of a given right is broader or the right is more clearly defined than in relevant international instruments.

For example, Article 11 (2) of the *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights* explicitly guarantees the rights to live in a healthy environment and to have access to basic public services. These two rights are not explicitly provided for in international standards. Where regional instruments provide similar protection to international treaties, they remain useful as they may have more legitimacy among political decision makers, civil society and those seeking redress for human rights violations. They may furthermore be seen more closely related to the particular situation of the State.

Furthermore, in for example the Americas, the availability of Portuguese and Spanish materials in the inter-American system increases the usability and popularity of these instruments. Regional instruments are also useful outside their specific regions as further evidence of the existence of the right to safe drinking water and sanitation as a norm shared by different peoples.

In addition, the African, Inter-American and European systems have a court, commission or committee that is competent to address individual complaints of human rights violations after all national remedies have been exhausted.

### 1. Africa

#### 1.1. Regional human rights treaties – Africa

##### *1.1.a. Recognition of the right to safe drinking water and sanitation*

#### Explicit recognition

##### *African Charter on the Rights and Welfare of the Child, 1990<sup>175</sup>*

<sup>175</sup> OAU Doc. CAB/LEG/24.9/49 (1990). Entered into force 29. November 1999. At: [http://www.africa-union.org/official\\_documents/Treaties\\_%20Conventions\\_%20Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf](http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf) (Last visited 15 June 2011).

#### **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.

#### **Protocol to the *African Charter on Human and Peoples' Rights on the Rights of Women in Africa*, 2003<sup>176</sup>**

#### **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, [...]

#### **Implicit recognition**

#### ***African (Banjul) Charter of Human and People's Rights*, 1981<sup>177</sup>**

#### **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 and to ensure that they receive medical attention when they are sick.

#### **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.
2. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.
3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.
4. The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.

### **1.2. Regional declarations and resolutions – Africa**

#### ***1.2.a. Recognition of the right to safe drinking water and sanitation***

#### **Explicit recognition**

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<sup>176</sup> Available at: <http://www.achpr.org/english/women/protocolwomen.pdf> (Last visited 15 June 2011).

<sup>177</sup> At: <http://www.africa-union.org/root/au/Documents/Treaties/Text/Banjul%20Charter.pdf> (Last visited 09 July 2011).

**Abuja Declaration, Declaration of the first Africa – South America Summit, 2006<sup>178</sup>**

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.

**1.2.b. Non-discrimination and attention to vulnerable and marginalized groups**

**Sharm El-Sheikh Commitments for accelerating the achievement of water and sanitation goals in Africa, AU Doc. Assembly/AU/Decl.1(XI), 2008<sup>179</sup>**

WE, the Heads of State and Government of the African Union, meeting at the 11<sup>th</sup> Ordinary Session of our Assembly in Sharm El-Sheikh, Arab Republic of Egypt, from 30 June to 1 July 2008,

[...]

WE COMMIT OURSELVES TO:

[...]

(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, 2008<sup>180</sup>**

**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;

**1.2.c. Participation and access to information**

**Sharm El-Sheikh Commitments for accelerating the achievement of water and sanitation goals in Africa, AU Doc. Assembly/AU/Decl.1(XI), 2008<sup>181</sup>**

<sup>178</sup> Available at: <http://www.iss.co.za/uploads/AFRISOUTDECL.PDF> (Last visited 15 April 2011)

<sup>179</sup> Available at: [http://www.dwaf.gov.za/dir\\_ws/2aww/docs/Sharm\\_El-Sheikh\\_Decisions\\_English\[1\].pdf](http://www.dwaf.gov.za/dir_ws/2aww/docs/Sharm_El-Sheikh_Decisions_English[1].pdf) (Last visited 18 June 2011).

<sup>180</sup> Available at: <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/First%20African%20Water%20Week%20Tunis%20Ministerial%20Declaration%20-%20English.pdf> (Last visited 26 April 2011)

<sup>181</sup> Available at: [http://www.dwaf.gov.za/dir\\_ws/2aww/docs/Sharm\\_El-Sheikh\\_Decisions\\_English\[1\].pdf](http://www.dwaf.gov.za/dir_ws/2aww/docs/Sharm_El-Sheikh_Decisions_English[1].pdf) (Last visited 8 July 2011).

## **Preamble**

WE, the Heads of State and Government of the African Union, meeting at the 11<sup>th</sup> Ordinary Session of our Assembly in Sharm El-Sheikh, Arab Republic of Egypt, from 30 June to 1 July 2008,

[...]

WE COMMIT OURSELVES TO:

[...]

(l) **Promote** effective engagement of African civil society and public participation in water and sanitation activities and programmes;

[...]

## ***The eThekweni Declaration, made at the Africa San Conference on Sanitation and Hygiene, Durban, 2008***<sup>182</sup>

### **Preamble**

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), [...]

Do hereby pledge ourselves to the following "eThekweni commitments on sanitation":

[...]

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;

[...]

### ***1.2.e. Accessibility of water and sanitation***

## ***Sharm El-Sheikh Commitments for accelerating the achievement of water and sanitation goals in Africa, AU Doc. Assembly/AU/Decl.1(XI), 2008***<sup>183</sup>

### **Preamble**

WE, the Heads of State and Government of the African Union, meeting at the 11<sup>th</sup> Ordinary Session of our Assembly in Sharm El-Sheikh, Arab Republic of Egypt, from 30 June to 1 July 2008,

[...]

WE COMMIT OURSELVES TO:

[...]

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;

[...]

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<sup>182</sup> Available at: <http://www-za.africasan2008.net/Final%20eThekweni%20Declaration.pdf> (Last visited 8 July 2011).

<sup>183</sup> Available at: [http://www.dwaf.gov.za/dir\\_ws/2aww/docs/Sharm\\_El-Sheikh\\_Decisions\\_English\[1\].pdf](http://www.dwaf.gov.za/dir_ws/2aww/docs/Sharm_El-Sheikh_Decisions_English[1].pdf) (Last visited 18 June 2011).

***The eThekweni Declaration, made at the Africa San Conference on Sanitation and Hygiene, Durban, 2008***<sup>184</sup>

**Preamble**

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),

[...]

Do hereby pledge ourselves to the following "eThekweni commitments on sanitation":

[...]

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.

***1.2.g. Water availability and allocation***

***Tunis Ministerial Declaration on Accelerating Water Security for Africa's Socio-Economic Development, 2008***<sup>185</sup>

**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;

***Sharm El-Sheikh Commitments for accelerating the achievement of water and sanitation goals in Africa, AU Doc. Assembly/AU/Decl.1(XI), 2008***<sup>186</sup>

**Preamble**

WE, the Heads of State and Government of the African Union, meeting at the 11<sup>th</sup> Ordinary Session of our Assembly in Sharm El-Sheikh, Arab Republic of Egypt, from 30 June to 1 July 2008,

[...]

WE COMMIT OURSELVES TO:

[...]

f) Ensure the equitable and sustainable use, as well as promote integrated management and development, of national and shared water resources in Africa;

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<sup>184</sup> Available at: <http://www-za.africasan2008.net/Final%20eThekweni%20Declaration.pdf> (Last visited 18 June 2011).

<sup>185</sup> Available at: <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/First%20African%20Water%20Week%20Tunis%20Ministerial%20Declaration%20-%20English.pdf> (Last visited 15 April 2011)

<sup>186</sup> Available at: [http://www.dwaf.gov.za/dir\\_ws/2aww/docs/Sharm\\_El-Sheikh\\_Decisions\\_English\[1\].pdf](http://www.dwaf.gov.za/dir_ws/2aww/docs/Sharm_El-Sheikh_Decisions_English[1].pdf) (Last visited 11 July 2011).



### 1.3. Regional environmental law treaties – Africa

#### 1.3.a. Recognition of the right to safe drinking water and sanitation

##### Explicit recognition

##### ***Niger Basin Water Charter, 2008 (Unofficial translation)***<sup>187</sup>

###### **Preamble**

[...]

**Considering** the fundamental right of every individual to have access to water;

###### **First article: Definitions**

[...]

11. "Right to water": the fundamental right to sufficient supply, physically accessible and at an affordable price, of water that is healthy and of acceptable quality for everyone's personal and domestic uses;

[...]

##### ***Senegal River Water Charter, (Unofficial translation), 2002***<sup>188</sup>

###### **Article 4**

[...]

The guiding principles, which govern all distribution of water of the [Senegal] River, aim at ensuring the full use of the resources for the populations of the riparian States, while respecting the safety of people and of the works, as well as the fundamental human right to healthy water, in the perspective of sustainable development.

###### **Article 8**

The use of the water resource aims to satisfy in an appropriate manner:

- the populations' drinking water needs, especially of the most vulnerable;

[...]

###### **Article 10**

Apart from domestic usage which is free of charge, the allocation of the water of the river shall be subject to a regime of prior authorisation or declaration. [...]

##### Implicit recognition

##### ***African Convention on the Conservation of Nature and Natural Resources (Revised Version), 2003***<sup>189</sup>

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<sup>187</sup> French original version available at:

[http://www.semide.net/media\\_server/files/Q/W/Charte%20du%20Bassin%20du%20Niger%20version%20finale%20français\\_30-04-2008-1.pdf](http://www.semide.net/media_server/files/Q/W/Charte%20du%20Bassin%20du%20Niger%20version%20finale%20français_30-04-2008-1.pdf). (Last visited 5 May 2011)

<sup>188</sup> French original version available at:

<http://bd.stp.gov.ml/padeli/pdf/CHARTEDESEAUXDUFLEUVESENEGAL.pdf> (last visited: 15 June 2011).

<sup>189</sup> Available at: [http://www.africa-](http://www.africa-union.org/root/au/Documents/Treaties/Text/nature%20and%20natural%20recesource.pdf)

[union.org/root/au/Documents/Treaties/Text/nature%20and%20natural%20recesource.pdf](http://www.africa-union.org/root/au/Documents/Treaties/Text/nature%20and%20natural%20recesource.pdf) (Last visited 15 February, 2011). As of 2 March 2010, the Convention has been signed by 53 States and ratified by 8. It will enter into force 30 days after the ratification of the 15<sup>th</sup> State. See <http://www.africa->

## **Article VII – Water**

[...]

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, [...]

### **1.3.c. Participation and access to information**

#### ***Niger Basin Water Charter, 2008 (Unofficial translation)*<sup>190</sup>**

##### **Article 25: Access to Information**

The Parties shall guarantee all members the right to be informed on the status of the resource water and to participate in the development and implementation of decisions relating to the valuation of the basin.

Therefore, information on the status of transboundary waters, water allocation to different sectors and measures taken or projected to prevent, manage and reduce the transboundary impact must be accessible to the public.

##### **Article 26: Modalities of Participation**

Public participation includes the following aspects:

information must be efficiently made available early in the decision making process; reasonable deadlines shall be scheduled concerning the different stages of public participation;

participation should start early in the proceedings;

the public shall be informed promptly in case of new projects;

the public shall have the possibility to submit written comments, such as all observations, information, suggestions, propositions, counter-propositions, analysis or opinions that they find pertinent;

the Parties and the authority shall ensure that, at the moment of decision-making, the results of public participation are duly taken into account;

the Parties shall ensure that, once the decision has been made, the public be promptly informed.

### **1.3.f. Affordability of water and sanitation**

#### ***Niger Basin Water Charter, 2008*<sup>191</sup> (Unofficial translation)**

##### **Article 9: Withdrawer Pays**

[...]

The usage is dependent upon either a tax or a fee. In any way, the right to water shall be guaranteed.

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union.org/root/au/Documents/Treaties/List/Revised%20Convention%20on%20Nature%20and%20Natural%20Resources.pdf (Last visited: 5 July 2011).

<sup>190</sup> French original version available at:

[http://www.semide.net/media\\_server/files/Q/W/Charte%20du%20Bassin%20du%20Niger%20version%20finale%20francais\\_30-04-2008-1.pdf](http://www.semide.net/media_server/files/Q/W/Charte%20du%20Bassin%20du%20Niger%20version%20finale%20francais_30-04-2008-1.pdf). (Last visited 5 May 2011)

<sup>191</sup> French original version available at:

[http://www.semide.net/media\\_server/files/Q/W/Charte%20du%20Bassin%20du%20Niger%20version%20finale%20francais\\_30-04-2008-1.pdf](http://www.semide.net/media_server/files/Q/W/Charte%20du%20Bassin%20du%20Niger%20version%20finale%20francais_30-04-2008-1.pdf). (Last visited 5 May 2011)

## 1.4 Regional humanitarian law – Africa

### ***African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), 2009***<sup>192</sup>

**NOTE** that this Convention, adopted in October 2009, has been signed by 31 of the 53 member states of the African Union, but has only been ratified by 5. The Convention must be ratified by 15 states to enter into force.

#### **Article**

**7**

#### **Protection and Assistance to Internally Displaced Persons in Situations of Armed Conflict**

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;

#### **Article 9**

#### **Obligations of States Parties Relating to Protection and Assistance during Internal Displacement**

2. States Parties shall:

a. Take necessary measures to ensure that internally displaced persons are received, without discrimination of any kind and live in satisfactory conditions of safety, dignity and security;

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;

## 2. Americas

### 2.1. Regional human rights treaties – Americas

#### ***2.1.a. Recognition of the right to safe drinking water and sanitation***

#### **Implicit recognition**

### ***American Convention on Human Rights, “Pact of San José, Costa Rica”, 1969***<sup>193</sup>

#### **Article 26: Progressive Development**<sup>194</sup>

<sup>192</sup> Available at: [http://www.africa-union.org/root/AR/index/Convention%20on%20IDPs%20\\_Eng\\_%20-%20Final.pdf](http://www.africa-union.org/root/AR/index/Convention%20on%20IDPs%20_Eng_%20-%20Final.pdf) (Last visited 15 April 2011)

<sup>193</sup> O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123. Entered into force 18 July 1978. Available at: <http://www.oas.org/juridico/english/treaties/b-32.html> (Last visited 15 June 2011).

<sup>194</sup> In Chapter III - Economic, Social and Cultural Rights

The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires.

***Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, "Protocol of San Salvador", 1988<sup>195</sup>***

**Article 11: Right to a Healthy Environment**

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.

## **2.2. Regional declarations and resolutions – Americas**

### ***2.2.a. Recognition of the right to safe drinking water and sanitation***

#### **Explicit recognition**

#### ***Abuja Declaration<sup>196</sup>***

##### **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.

#### ***EUROLAT, Resolution of 8 April 2009, Madrid<sup>197</sup>***

**C.** the provision of water-related services [...] should be properly supervised by the public authorities [...] so as to safeguard access to water as a basic human right,  
**3.** Considers that water must continue to be a public good and access to it a basic human right, [...]

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<sup>195</sup> O.A.S. Treaty Series No. 69 (1988). Entered into force 16 November 1999. At: <http://www.oas.org/juridico/english/treaties/b-32.html> (Last visited 1 June 2011).

<sup>196</sup> <http://www.iss.co.za/uploads/AFRISOUTDECL.PDF> (Last visited 29 September 2011)

<sup>197</sup> Available at:

[http://www.europarl.europa.eu/intcoop/eurolat/assembly/plenary\\_sessions/madrid\\_2009/adopted\\_docs/water\\_en.pdf](http://www.europarl.europa.eu/intcoop/eurolat/assembly/plenary_sessions/madrid_2009/adopted_docs/water_en.pdf) (Last visited 11 May 2011)

For similar provisions, *see also*:

*EUROLAT*, Resolution of 8 April 2009, Madrid, section 4.<sup>198</sup>

### **Implicit recognition**

***American Declaration of the Rights and Duties of Man*, OAS Res. XXX, 1948<sup>199</sup>**

#### **Article XI: Right to the preservation of health and to well-being**

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.

### ***2.2.e. Accessibility of water and sanitation***

***2008 Inter-American Commission on Human Rights Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas*<sup>200</sup>**

#### **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.

***EUROLAT*, Resolution of 8 April 2009, Madrid<sup>201</sup>**

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<sup>198</sup> Available at:

[http://www.europarl.europa.eu/intcoop/eurolat/assembly/plenary\\_sessions/madrid\\_2009/adopted\\_docs/water\\_en.pdf](http://www.europarl.europa.eu/intcoop/eurolat/assembly/plenary_sessions/madrid_2009/adopted_docs/water_en.pdf) (Last visited 11 May 2011)

<sup>199</sup> Available at: [http://www.hrcr.org/docs/OAS\\_Declaration/oasrights.html](http://www.hrcr.org/docs/OAS_Declaration/oasrights.html) (Last visited 18 June, 2011).

<sup>200</sup> Available at:

<http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm> (Last visited 15 April 2011)

3. Considers that water must continue to be a public good and access to it a basic human right, [...]

4. Considers that, given the importance of water as a vital resource, the population must be guaranteed secure access to good quality water for food preparation and hygiene purposes and as a basic production resource, e.g. for agriculture; and stresses that the private appropriation of water makes it difficult to achieve all those objectives; calls on all European and Latin American countries to upgrade their public water collection and supply service, and, should they confide the indirect management of this public service to private companies, to establish the monitoring systems that are needed to prevent possible abuse or discrimination and ensure access to water as a basic human right;

### 3. Europe and CIS

#### 3.1. Regional human rights treaties – Europe

##### *3.1.a. Recognition of the right to safe drinking water and sanitation*

##### **Implicit recognition**

##### ***European Social Charter, 1961***<sup>202</sup>

##### **Article 11: The right to protection of health**

With a view to ensuring the effective exercise of the right to protection of health, the Contracting 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.

##### **Article 12: The right to social security**

With a view to ensuring the effective exercise of the right to social security, the Contracting Parties undertake:

1. to establish or maintain a system of social security; [...]

##### **Article 13: The right to social and medical assistance**

With a view to ensuring the effective exercise of the right to social and medical assistance, the Contracting Parties undertake:

1. to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by

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<sup>201</sup> Available at:

[http://www.europarl.europa.eu/intcoop/eurolat/assembly/plenary\\_sessions/madrid\\_2009/adopted\\_docs/water\\_en.pdf](http://www.europarl.europa.eu/intcoop/eurolat/assembly/plenary_sessions/madrid_2009/adopted_docs/water_en.pdf) (Last visited 11 May 2011)

<sup>202</sup> At: <http://conventions.coe.int/Treaty/en/Treaties/Html/035.htm> (last visited 11 July 2011).

benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;  
[...]

3. to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want; [...]

### ***Revised European Social Charter, 1996*<sup>203</sup>**

#### **Article 31: The right to housing**

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.

### ***3.1.c. Participation and access to information***

#### ***Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 'Aarhus Convention', 1998*<sup>204</sup>**

##### **Article 1: Objective**

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.

## **3.2. Regional declarations and resolutions – Europe**

### ***3.2.a. Recognition of the right to safe drinking water and sanitation***

#### **Explicit recognition**

#### ***European Parliament resolution on water in the light of the 5th World Water Forum, 2009*<sup>205</sup>**

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;

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<sup>203</sup> At: <http://conventions.coe.int/Treaty/en/Treaties/Html/163.htm> (Last visited 11 July 2011).

<sup>204</sup> At: <http://www.unece.org/env/pp/documents/cep43e.pdf> (Last visited 11 July 2011).

<sup>205</sup> Available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2009-0137&language=EN> (Last visited 11 May 2011)

**EUROLAT, Resolution of 8 April 2009, Madrid<sup>206</sup>**

C. the provision of water-related services [...] should be properly supervised by the public authorities [...] so as to safeguard access to water as a basic human right,

3. Considers that water must continue to be a public good and access to it a basic human right, [...]

For similar provisions, *see also*:

*EUROLAT, Resolution of 8 April 2009, Madrid, section 4.*<sup>207</sup>

***Recommendation Rec (2001) 14 of the Committee of Ministers of the Council of Europe to member States on the European Charter on Water Resources, 17 October 2001***<sup>208</sup>

**Paragraph 5**

Everyone has the right to a sufficient quantity of water for his or her basic needs. International human rights instruments recognise the fundamental right of all human beings to be free from hunger and to an adequate standard of living for themselves and their families. It is quite clear that these two requirements include the right to a minimum quantity of water of satisfactory quality from the point of view of health and hygiene.

Social measures should be put in place to prevent the supply of water to destitute persons from being cut off.

***"Water management in developing countries", 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***<sup>209</sup>

**Preamble**

The European Parliament,  
[...]

C. whereas access to water is essential for life, health, food, well-being and development and water cannot therefore be regarded as a mere commodity,

D. whereas the United Nations Committee on Economic, Social and Cultural Rights has enshrined access to water as a human right and the 145 countries that have ratified the International Covenant on Economic, Social and Cultural Rights have an obligation to ensure that everyone has access to water, equitably and without discrimination,

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<sup>206</sup> Available at:

[http://www.europarl.europa.eu/intcoop/eurolat/assembly/plenary\\_sessions/madrid\\_2009/adopted\\_docs/water\\_en.pdf](http://www.europarl.europa.eu/intcoop/eurolat/assembly/plenary_sessions/madrid_2009/adopted_docs/water_en.pdf) (Last visited 11 May 2011)

<sup>207</sup> Available at:

[http://www.europarl.europa.eu/intcoop/eurolat/assembly/plenary\\_sessions/madrid\\_2009/adopted\\_docs/water\\_en.pdf](http://www.europarl.europa.eu/intcoop/eurolat/assembly/plenary_sessions/madrid_2009/adopted_docs/water_en.pdf) (Last visited 11 May 2011)

<sup>208</sup> Available at: <https://wcd.coe.int/ViewDoc.jsp?id=231615&Site=COE> (Last visited 11 July 2011).

<sup>209</sup> At: <http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/ce076/ce07620040325en04300435.pdf> (Last visited 11 July 2011).



[...]

1. Reaffirms that access to drinking water in a sufficient quantity and of adequate quality is a basic human right and considers that national governments have a duty to fulfil 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, published by 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 United Nations' International Covenant on Economic, Social and Cultural Rights;

[...]

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;

### **Implicit recognition**

***Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment, as amended by Commission Directive 98/15/EC of 27 February 1998<sup>210</sup>***

#### **Article 1**

This Directive concerns the collection, treatment and discharge of urban waste water and the treatment and discharge of waste water from certain industrial sectors. The objective of the Directive is to protect the environment from the adverse effects of the abovementioned waste water discharges.

#### **Article 3**

1. Member States shall ensure that all agglomerations are provided with collecting systems for urban waste water,

- at the latest by 31 December 2000 for those with a population equivalent (p.e.) of more than 15 000, and

- at the latest by 31 December 2005 for those with a p.e. of between 2 000 and 15 000.

For urban waste water discharging into receiving waters which are considered 'sensitive areas' as defined under Article 5, Member States shall ensure that collection systems are provided at the latest by 31 December 1998 for agglomerations of more than 10 000 p.e. Where the establishment of a collecting system is not justified either because it would produce no environmental benefit or because it would involve excessive cost, individual systems or other appropriate systems which achieve the same level of environmental protection shall be used.

2. Collecting systems described in paragraph 1 shall satisfy the requirements of Annex I (A). These requirements may be amended in accordance with the procedure laid down in Article 18.

#### **Article 4**

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<sup>210</sup> Available at: <http://ec.europa.eu/environment/water/water-urbanwaste/directiv.html> (Last visited 11 July 2011).

1. Member States shall ensure that urban waste water entering collecting systems shall before discharge be subject to secondary treatment or an equivalent treatment as follows:

- at the latest by 31 December 2000 for all discharges from agglomerations of more than 15 000 p.e.,
- at the latest by 31 December 2005 for all discharges from agglomerations of between 10 000 and 15 000 p.e.,
- at the latest by 31 December 2005 for discharges to fresh-water and estuaries from agglomerations of between 2 000 and 10 000 p.e.

### **3.2.c. Participation and access to information**

**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**<sup>211</sup>

#### **Article 14: Public information and consultation**

1. Member States shall encourage the active involvement of all interested parties in the implementation of this Directive, in particular in the production, review and updating of the river basin management plans. Member States shall ensure that, for each river basin district, they publish and make available for comments to the public, including users: ...

*This Directive should be read together with Recommendation 14 of the European Committee of Ministers (see Subsection 3.2.a), which provides an exception to the principle of cost recovery for the right to have access to water for basic needs.*

**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**<sup>212</sup>

#### **Article 14: Public information and consultation**

1. Member States shall encourage the active involvement of all interested parties in the implementation of this Directive, in particular in the production, review and updating of the river basin management plans. Member States shall ensure that, for each river basin district, they publish and make available for comments to the public, including users:

[...]

### **3.2.e. Accessibility of water and sanitation**

**EUROLAT, Resolution of 8 April 2009, Madrid**<sup>213</sup>

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<sup>211</sup> Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:327:0001:0072:EN:PDF> (Last visited 15 April, 2011).

<sup>212</sup> At: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:327:0001:0072:EN:PDF> (Last visited 11 July 2011).

<sup>213</sup> Available at:

[http://www.europarl.europa.eu/intcoop/eurolat/assembly/plenary\\_sessions/madrid\\_2009/adopted\\_docs/water\\_en.pdf](http://www.europarl.europa.eu/intcoop/eurolat/assembly/plenary_sessions/madrid_2009/adopted_docs/water_en.pdf) (Last visited 11 May 2011)

3. Considers that water must continue to be a public good and access to it a basic human right, [...]

4. Considers that, given the importance of water as a vital resource, the population must be guaranteed secure access to good quality water for food preparation and hygiene purposes and as a basic production resource, e.g. for agriculture; and stresses that the private appropriation of water makes it difficult to achieve all those objectives; calls on all European and Latin American countries to upgrade their public water collection and supply service, and, should they confide the indirect management of this public service to private companies, to establish the monitoring systems that are needed to prevent possible abuse or discrimination and ensure access to water as a basic human right;

***"Water management in developing countries", 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<sup>214</sup>***

#### **Paragraph 1**

[...]

1. Reaffirms that access to drinking water in a sufficient quantity and of adequate quality is a basic human right and considers that national governments have a duty to fulfil 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*, published by WHO/UNICEF);

### **3.2.f. Affordability of water and sanitation**

***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<sup>215</sup>***

#### **Article 9**

Recovery of costs for water services 1. Member States shall take account of the principle of recovery of the costs of water services, including environmental and resource costs, having regard to the economic analysis conducted according to Annex III, and in accordance in particular with the polluter pays principle. Member States shall ensure by 2010

- that water-pricing policies provide adequate incentives for users to use water resources efficiently, and thereby contribute to the environmental objectives of this Directive,

- an adequate contribution of the different water uses, disaggregated into at least industry, households and agriculture, to the recovery of the costs of water services, based on the economic analysis conducted according to Annex III and taking account of the polluter pays principle. Member States may in so doing have regard to the

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<sup>214</sup> At: <http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/ce076/ce07620040325en04300435.pdf> (Last visited 11 July 2011).

<sup>215</sup> Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:327:0001:0072:EN:PDF> (Last visited 15 April, 2011).

social, environmental and economic effects of the recovery as well as the geographic and climatic conditions of the region or regions affected.

***Recommendation Rec (2001) 14 of the Committee of Ministers of the Council of Europe to member States on the European Charter on Water Resources, 17 October 2001***<sup>216</sup>

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. [...]

To finance the supply and purification of water, it is essential to implement the "polluter pays" principle. To this end, appropriate charges must be set (proportional or progressive rates, rates for low-income categories or supply of a minimum quantity of water on preferential terms), depending on the use. Charges will depend on the expected evolution of water resources, the investment required and social considerations. The "user-pays" principle, pursuant to which the price of water available for given uses - and thus of adequate quality - must be borne by the user, must be taken into account, subject to basic needs being met.

***"Water management in developing countries", 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***<sup>217</sup>

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; stresses that the key issue is not whether water provision is organised by a public or private entity but rather the specific obligations provided by the policy framework; considers that it is up to the public authorities in developing countries to define the legal framework for regulating the work of operators;

[...]

7. Stresses the need for a pricing system which allows everyone access to the water required to meet essential needs and which ensures efficient use of water by giving users responsibility;

[...]

***3.2.g. Water availability and allocation***

***"Water management in developing countries", 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***<sup>218</sup>

The European Parliament,

[...]

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<sup>216</sup> Available at: <https://wcd.coe.int/ViewDoc.jsp?id=231615&Site=COE> (Last visited 11 July 2011).

<sup>217</sup> At: <http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/ce076/ce07620040325en04300435.pdf> (Last visited 11 July 2011).

<sup>218</sup> At: <http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/ce076/ce07620040325en04300435.pdf> (Last visited 11 July 2011).

1. Reaffirms that access to drinking water in a sufficient quantity and of adequate quality is a basic human right and considers that national governments have a duty to fulfil 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, published by WHO/UNICEF);

### **3.2.h. Water quality and hygiene**

***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***<sup>219</sup>

[...]

Whereas:

1. Water is not a commercial product like any other but, rather, a heritage which must be protected, defended and treated as such.

[...]

#### **Article 4: Environmental objectives**

1. In making operational the programmes of measures specified in the river basin management plans:

a) for surface waters

(i) Member States shall implement the necessary measures to prevent deterioration of the status of all bodies of surface water, [...]

(ii) Member States shall protect, enhance and restore all bodies of surface water, subject to the application of subparagraph (iii) for artificial and heavily modified bodies of water, with the aim of achieving good surface water status at the latest 15 years after the date of entry into force of this Directive, in accordance with the provisions laid down in Annex V, [...]

(iii) Member States shall protect and enhance all artificial and heavily modified bodies of water, with the aim of achieving good ecological potential and good surface water chemical status at the latest 15 years from the date of entry into force of this Directive, in accordance with the provisions laid down in Annex V, [...]

(iv) Member States shall implement the necessary measures in accordance with Article 16(1) and (8), with the aim of progressively reducing pollution from priority substances and ceasing or phasing out emissions, discharges and losses of priority hazardous substances

without prejudice to the relevant international agreements referred to in Article 1 for the parties concerned;

b) for groundwater

(i) Member States shall implement the measures necessary to prevent or limit the input of pollutants into groundwater and to prevent the deterioration of the status of all bodies of groundwater, [...]

(ii) Member States shall protect, enhance and restore all bodies of groundwater, ensure a balance between abstraction and recharge of groundwater, with the aim of

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<sup>219</sup> Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:327:0001:0072:EN:PDF> (Last visited 15 April, 2011).

achieving good groundwater status at the latest 15 years after the date of entry into force of this Directive, in accordance with the provisions laid down in Annex V, [...]

(iii) Member States shall implement the measures necessary to reverse any significant and sustained upward trend in the concentration of any pollutant resulting from the impact of human activity in order progressively to reduce pollution of groundwater [...]

c) for protected areas

Member States shall achieve compliance with any standards and objectives at the latest 15 years after the date of entry into force of this Directive, unless otherwise specified in the Community legislation under which the individual protected areas have been established.

2. Where more than one of the objectives under paragraph 1 relates to a given body of water, the most stringent shall apply.

#### **Article 7: Waters used for the abstraction of drinking water**

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 m<sup>3</sup> 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 water which according to Annex V, provide more than 100 m<sup>3</sup> a day as an average.

[...]

3. Member States shall ensure the necessary protection for the bodies of water identified with the aim of avoiding deterioration in their quality in order to reduce the level of purification treatment required in the production of drinking water. Member States may establish safeguard zones for those bodies of water.

#### **Article 8: Monitoring of surface water status, groundwater status and protected areas**

1. Member States shall ensure the establishment of programmes for the monitoring of water status in order to establish a coherent and comprehensive overview of water status within each river basin district:

- for surface waters such programmes shall cover:

- (i) the volume and level or rate of flow to the extent relevant for ecological and chemical status and ecological potential, and
- (ii) the ecological and chemical status and ecological potential;

- for groundwaters such programmes shall cover monitoring of the chemical and quantitative status,

- for protected areas the above programmes shall be supplemented by those specifications contained in Community legislation under which the individual protected areas have been established.

2. These programmes shall be operational at the latest six years after the date of entry into force of this Directive unless otherwise specified in the legislation concerned [...]

3. Technical specifications and standardised methods for analysis and monitoring of water status shall be laid down in accordance with the procedure laid down in Article 21.

***Council Directive 98/83/EC on the quality of water intended for human consumption ("Drinking Water Directive"), 3 November 1998<sup>220</sup>***

**Article 1: Objective**

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.

**Article 4: General obligations**

1. Without prejudice to their obligations under other Community provisions, 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.

**Article 7: Monitoring**

1. Member States shall take all measures necessary to ensure that regular monitoring of the quality of water intended for human consumption is carried out, in order to check that the water available to consumers meets the requirements of this Directive and in particular the parametric values set in accordance with Article 5. Samples should be taken so that they are representative of the quality of the water consumed throughout the year. In addition, Member States shall take all measures necessary to ensure that, where disinfection forms part of the preparation or distribution of water intended for human consumption, the efficiency of the disinfection treatment applied is verified, and that any contamination from disinfection by-products is kept as low as possible without compromising the disinfection.

### **3.3. Regional environmental and labour treaties – Europe**

#### ***3.3.a. Recognition of the right to safe drinking water and sanitation***

##### **Implicit recognition**

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<sup>220</sup> At: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31998L0083:EN:HTML> (Last visited 11 July 2011).

***London Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes, 1999***<sup>221</sup>

**Article 6: Targets and Target Dates**

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

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.

***3.3.b. Non-discrimination and attention to vulnerable and marginalized groups***

***London Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes, 1999***<sup>222</sup>

**Article 5: Principles and Approaches**

[...]

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.

***3.3.h. Water quality and hygiene***

***London Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes, 1999***<sup>223</sup>

**Article 1: Objective**

The objective of this Protocol is to promote at all appropriate levels, nationally as well as in transboundary and international contexts, the protection of human health and well-being, both individual and collective, within a framework of sustainable development, through improving water management, including the protection of water ecosystems, and through preventing, controlling and reducing water-related disease.

**Article 4: General Provisions**

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 microorganisms, parasites and substances which, owing to their numbers or concentration, constitute a potential danger to human health. This shall include the

<sup>221</sup> Available at: <http://www.unece.org/env/documents/2000/wat/mp.wat.2000.1.e.pdf> (Last visited 11 July 2011).

<sup>222</sup> Available at: <http://www.unece.org/env/documents/2000/wat/mp.wat.2000.1.e.pdf> (Last visited 11 July 2011).

<sup>223</sup> Available at: <http://www.unece.org/env/documents/2000/wat/mp.wat.2000.1.e.pdf> (Last visited 11 July 2011).



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;

d) Sufficient safeguards for human health against water-related disease arising from the use of water for recreational purposes, from the use of water for aquaculture, from the water in which shellfish are produced or from which they are harvested, from the use of waste water for irrigation or from the use of sewage sludge in agriculture or aquaculture;

## **4. Middle East**

### **4.1. Regional human rights treaties – Middle East**

#### ***4.1.a. Recognition of the right to safe drinking water and sanitation***

##### **Implicit recognition**

##### ***Arab Charter on Human Rights, 2004***<sup>224</sup>

##### **Article 38**

Every person has the right to an adequate standard of living for himself and his family, which ensures their well-being and a decent life, including food, clothing, housing, services and the right to a healthy environment. The States parties shall take the necessary measures commensurate with their resources to guarantee these rights.

##### **Article 39**

1. The States parties recognize the right of every member of society to the enjoyment of the highest attainable standard of physical and mental health and the right of the citizen to free basic health-care services and to have access to medical facilities without discrimination of any kind.

2. The measures taken by States parties shall include the following:

[...]

e) Provision of the basic nutrition and safe drinking water for all.

f) Combating environmental pollution and providing proper sanitation systems;

A committee will be established to monitor state compliance.<sup>225</sup>

<sup>224</sup> Available at: <http://www1.umn.edu/humanrts/instree/arabhrcharter.html> (Last Visited 11 July 2011).

<sup>225</sup> The Arab Human Rights Committee is still in process of establishment, as of 4/15/2011, according to Kuwait News Agency (KUNA): <http://www.kuna.net.kw/NewsAgenciesPublicSite/ArticlePrintPage.aspx?id=2032729&language=en> (Last visited 15 April 2011)

## 5. Asia and Pacific

### 5.1. Regional declarations and resolutions - Asia-Pacific

#### *5.1.a. Recognition of the right to safe drinking water and sanitation*

##### **Explicit recognition**

***Colombo Declaration, adopted at the Fourth South Asian Conference on Sanitation (SACOSAN IV), 4-7 April 2011***<sup>226</sup>

In light of the recent UN resolution recognising the **right to sanitation**, to work progressively to realise this in programmes and projects and eventually in legislation.

***"Message from Beppu", adopted at the 1st Asia-Pacific Water Summit, 3-4 December 2007***<sup>227</sup>

We, the leaders of the Asia-Pacific, do hereby agree to:

- Recognize 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,
- Improve governance, efficiency, transparency and equity in all aspects related to the management of water, particularly as it impacts on poor communities. We recognise that while women are particularly vulnerable, they are also resilient and entrepreneurial, hence, should be empowered in all water-related activities.

*"This Message from Beppu was unanimously endorsed by the participants of the 1st Asia-Pacific Water Summit, which was held in Beppu, Japan, on 3-4<sup>th</sup> December*

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<sup>226</sup> Available at: [http://www.wsscc.org/sites/default/files/publications/sacosaniv\\_colombo\\_declaration\\_2011.pdf](http://www.wsscc.org/sites/default/files/publications/sacosaniv_colombo_declaration_2011.pdf) (Last visited 28 April 2011)

<sup>227</sup> Available at: [http://www.worldwatercouncil.org/fileadmin/www/Programs/Right\\_to\\_Water/Pdf\\_doct/Message\\_from\\_Beppu\\_0712\\_04.pdf](http://www.worldwatercouncil.org/fileadmin/www/Programs/Right_to_Water/Pdf_doct/Message_from_Beppu_0712_04.pdf) (Last visited 11 July 2011). The following countries were represented at the summit at at least the ministerial or vice-ministerial level: Armenia, Australia, Azerbaijan, Bhutan, Brunei Darussalam, Cambodia, China, Cook Islands, Fiji Islands, Japan, India, Indonesia, Iran, Kazakhstan, Kiribati, Republic of Korea, Kyrgyz Republic, Lao People's Democratic Republic, Marshall Islands, Federated States of Micronesia, Mongolia, Myanmar, Nauru, Nepal, New Zealand, Niue, Palau, Papua New Guinea, Philippines, Samoa, Singapore, Sri Lanka, Tajikistan, Thailand, Tuvalu, Uzbekistan. Most participants (including those from China, India, Japan and Iran).

2007, attended by ten Heads of State and Government, 31 Ministers, and representatives from over 36 Asia-Pacific countries and regions.<sup>228</sup>

**Delhi Declaration, adopted at the Third South Asian Conference on Sanitation (SACOSAN III), 16-21 November 2008<sup>229</sup>**

**Preamble**

We, the Heads of Delegations from Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka, participating in the Third South Asian Conference on Sanitation (SACOSAN-III), in New Delhi from November 16 to 21 2008, attended by Ministers, elected representatives, government officials, professionals, academia, civil society, non-government and community organizations, development partners and the private sector:

1. Recognise that access to sanitation and safe drinking water is a basic right, and according national priority to sanitation is imperative.

**5.1.b. Non-discrimination and attention to vulnerable and marginalized groups**

**Colombo Declaration, adopted at the Fourth South Asian Conference on Sanitation (SACOSAN IV), 4-7 April 2011<sup>230</sup>**

(iii) To design and deliver **context-specific equitable and inclusive sanitation and hygiene programmes** including better identification of the poorest and most marginalised groups in rural and urban areas, including transparent targeting of financing to programmes for those who need them most, and taking into account the challenge of protecting the environment and responding to emergencies and climate change.

**Delhi Declaration, adopted at the Third South Asian Conference on Sanitation (SACOSAN III), 16-21 November 2008<sup>231</sup>**

[...]

**4. [...]**

f) Incentives and support will be provided for the poor and people in vulnerable areas;

g) The needs and concerns of women and most vulnerable (e.g. infants, children especially girl-children, the differently-abled, the elderly) will be addressed as a priority. Innovative mechanisms e.g. micro-finance by Self Help Groups, will be effectively promoted;

h) Socially and economically disadvantaged households will be mobilized to form groups; and supported to access sanitation and other development programs; [...]

q) The urban poor, especially those in slum settlements, will be facilitated and supported to obtain access to safe sanitation as a part of the integrated city-wide sanitation plans; and

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<sup>228</sup> See:

[http://www.worldwatercouncil.org/fileadmin/www/Programs/Right\\_to\\_Water/Pdf\\_doct/Message\\_from\\_Beppu\\_071204.pdf](http://www.worldwatercouncil.org/fileadmin/www/Programs/Right_to_Water/Pdf_doct/Message_from_Beppu_071204.pdf) (Last visited 15 April 2011)

<sup>229</sup> Available at: <http://ddws.nic.in/infosacosan/ppt/Delhi%20Declaration%207.pdf> (Last visited 11 July 2011).

<sup>230</sup> Available at: [http://www.wsscc.org/sites/default/files/publications/sacosaniv\\_colombo\\_declaration\\_2011.pdf](http://www.wsscc.org/sites/default/files/publications/sacosaniv_colombo_declaration_2011.pdf) (Last visited 28 April 2011)

<sup>231</sup> Available at: <http://ddws.nic.in/infosacosan/ppt/Delhi%20Declaration%207.pdf> (Last visited 11 July 2011).

r) The critical role of personnel involved in sanitation work will be recognized, and measures taken to raise their dignity.

***Delhi Declaration, adopted at the Third South Asian Conference on Sanitation (SACOSAN III), 16-21 November 2008<sup>232</sup>***

4.

[...]

j) Greater thrust will be placed on promoting adequate sanitation in schools e.g. separate facilities for boys and girls, supported by safe drinking water and with adequate child-friendly facilities. Hygiene education will be incorporated into the school curricula to promote good hygiene behaviour and upkeep of facilities;

[...]

***Delhi Declaration, adopted at the Third South Asian Conference on Sanitation (SACOSAN III), 16-21 November 2008<sup>233</sup>***

4.

[...]

i) The special sanitation needs of women (e.g. menstrual hygiene management) will be integrated in planning, implementation, monitoring and measurement of program outcomes. The key role of women in managing sanitation and hygiene in community settings will be enhanced;

[...]

#### ***5.1.c. Participation and access to information***

***Delhi Declaration, adopted at the Third South Asian Conference on Sanitation (SACOSAN III), 16-21 November 2008<sup>234</sup>***

4.

[...]

b) Achieving sanitation for all will be an inclusive process, involving all stakeholders at all stages, especially local governments, community and grassroots groups;

c) Sanitation will not be considered merely an infrastructure or financing challenge, but one that requires effective policy, institutional and fiscal incentives to change behaviour, working in partnership with religious leaders, communities, institutions (e.g. schools etc.), local governments and service providers; and strengthening their capacities and accountability in mobilizing, implementation and monitoring;

[...]

e) A range of sanitation provision and service options will be available to choose from. Basic access to sanitation facilities will be ensured to all by reducing disparities through appropriate budgetary policies, with active participation, contribution, decision-making and ownership by communities;

#### ***5.1.e. Accessibility of water and sanitation***

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<sup>232</sup> Available at: <http://ddws.nic.in/infosacosan/ppt/Delhi%20Declaration%207.pdf> (Last visited 11 July 2011).

<sup>233</sup> Available at: <http://ddws.nic.in/infosacosan/ppt/Delhi%20Declaration%207.pdf> (Last visited 11 July 2011).

<sup>234</sup> Available at: <http://ddws.nic.in/infosacosan/ppt/Delhi%20Declaration%207.pdf> (Last visited 11 July 2011).

**Seoul Guidelines**<sup>235</sup> on the Cooperation of NHRIs for the Promotion and Protection of Human Rights of Migrants in Asia

**33.** Establishing a set of minimum standards for the living conditions associated with employer supplied housing for migrant workers, and their families, where appropriate, including requirements for the provision of basic amenities, such as shelter, running water, heat, and lighting,

**Association of Southeast Asian Nations (ASEAN) Social Cultural Community Agreement: Regional Action Plan on Healthy ASEAN Lifestyles (2002)**<sup>236</sup>

**3.** ASEAN Member Countries, in conjunction with appropriate partners, to take immediate actions in the following priority policy areas:

**3.2** Safe water and healthy food – to scale up their actions to secure access by all households, workplaces and public places to sanitation, safe water and healthy food (safe, balanced and nutritious);

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<sup>235</sup> Available at: [http://www.asiapacificforum.net/services/international-regional/regional-mechanisms/downloads/regional-cooperation-between-nhris/Seoul\\_Guidelines.pdf](http://www.asiapacificforum.net/services/international-regional/regional-mechanisms/downloads/regional-cooperation-between-nhris/Seoul_Guidelines.pdf) (Last visited 15 April 2011)

<sup>236</sup> Available at: <http://www.aseansec.org/8625.htm> (Last visited 15 April 2011)

## Part 3: National sources

### Selected Constitutional Standards

Numerous national constitutions across the world explicitly recognize the duty of the State to ensure access to water and sanitation for the populations under their jurisdictions. In some constitutions, there is an explicit reference to the right to safe drinking water and/or sanitation, in other constitutions this right is implied, for example within the *right to health*<sup>237</sup>, or the *right to life*.<sup>238</sup>

The following subsection does not contain provisions with an implicit reference to water and sanitation, unless they contain an explicit *textual* reference to water/sanitation/public services. An example: In India, the right to water is protected through the constitutionally guaranteed *right to life*, which courts have consistently interpreted as to include the right to safe drinking water and sanitation. Yet this judicial protection of the right to water, under a provision protecting the “right to life”, will not be categorized as an “implicit recognition” of the right to safe drinking water and sanitation as the source only mentions the right to life and therefore lacks a direct *textual* reference to water/sanitation/public services.

Readers should however keep in mind that those implicit provisions, although they are not included in this publication, can still provide a compelling legal basis for the implementation of the right to safe drinking water and sanitation.

## 1. Africa

### 1.1. Constitutional standards – Africa

#### 1.1.a. Recognition of the right to safe drinking water and sanitation

#### Explicit recognition

**CONGO (Democratic Republic of the Congo)**  
***Constitution of the Democratic Republic of the Congo, 2006 (Unofficial translation)***<sup>239</sup>  
**Article 48**

<sup>237</sup> The right to a healthy environment, or a similar right, has been formally included in most constitutions adopted since 1992.

<sup>238</sup> For example, India’s case law on the right to water developed for over 15 years and expanded the interpretation of the right to life of Article 21 of the Constitution to include the right to water. See for example; “Attakoya Thangal v. Union of India, 1990 (1) KLT 580. See: <http://www.elaw.org/node/2537> (Last visited 22 April 2011)

<sup>239</sup> French original available at: <http://www.presidentrdc.cd/constitution.html> (Last visited 20 December, 2010).

The right to adequate housing and the right to access drinking water and electricity are guaranteed. The law establishes the modalities for exercising these rights.

## **KENYA**

***The Constitution of Kenya, 2010***<sup>240</sup>

### **Article 43**

(1) Every person has the right

(b) to accessible and adequate housing, and to reasonable standards of sanitation;

(d) to clean and safe water in adequate quantities;

## **NIGER**

***Constitution of the Seventh Republic, 2010***<sup>241</sup>

### **Article 12**

Everyone has the right to life, health, physical and moral integrity, to healthy and sufficient food, to drinking water, education and instruction under the conditions defined by the law.

The State shall ensure the satisfaction of the basic needs, services and full development for everyone.

[...]

## **SOUTH AFRICA**

***Constitution of South Africa, 1996, as last amended by Amendment Act No. 3 of 2003***<sup>242</sup>

### **Article 27**

(1) Everyone has the right to have access to

[...]

b) sufficient food and water; [...]

[...]

(2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.

## **Implicit recognition**

## **BENIN**

***Constitution of the Republic of Benin, 1990 (Unofficial translation)***<sup>243</sup>

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<sup>240</sup> Available at: [http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Constitution\\_of\\_Kenya\\_\\_2010.pdf](http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Constitution_of_Kenya__2010.pdf) (Last visited 14 April 2011)

<sup>241</sup> French original available at: <http://www.conseilconsultatif-niger.org/images/stories/constviirep.pdf> (Last visited 20 June 2011)

<sup>242</sup> Available at: <http://www.info.gov.za/documents/constitution/1996/a108-96.pdf> (Last visited 20 December, 2010).

<sup>243</sup> French original available at: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=195505](http://www.wipo.int/wipolex/en/text.jsp?file_id=195505) (Last visited 20 December, 2010).

## **Article 21**

1. The people enjoy free ownership of their wealth and natural resources. This right is to be exercised exclusively in the interest of populations. Under no circumstances shall people be deprived thereof.

## **BURKINA FASO**

***Constitution of Burkina Faso, 1991, as last amended 22 January 2002 (Unofficial translation)***<sup>244</sup>

## **Article 14**

Wealth and natural resources belong to the people. They are used for the improvement of their living conditions.

## **CÔTE D'IVOIRE**

***Constitution of Côte d'Ivoire, 2000 (Unofficial translation)***<sup>245</sup>

## **Article 7**

Every human being has the right to development and the right to intellectual and spiritual self-fulfilment. The State shall ensure all citizens equal access to health, education, culture, information, professional education and employment. [...]

## **MALAWI**

***Constitution of the Republic of Malawi, 1992, last amended 8 April 1998***<sup>246</sup>

## **Article 30**

(1) All persons and peoples have a right to development and therefore to the enjoyment of economic, social, cultural and political development and women, children and the disabled in particular shall be given special consideration in the application of this right.

(2) The State shall take all necessary measures for the realization of the right to development. Such measures shall include, amongst other things, equality of opportunity for all in their access to basic resources, education, health services, food, shelter, employment and infrastructure.

## **MOZAMBIQUE**

***Constitution of the Republic of Mozambique, 2005 (Unofficial translation)***<sup>247</sup>

## **Article 92: Rights of Consumers**

1. Consumers have a right to quality goods and services, to association and information, to the protection of health, to the safeguarding of their economic interests, as well as to reparation for damages.

## **BURUNDI**

***Constitution of the Republic of Burundi, 2005 (Unofficial translation)***<sup>248</sup>

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<sup>244</sup> French original available at: [http://www.legiburkina.bf/codes/constitution\\_du\\_burkina\\_faso.htm](http://www.legiburkina.bf/codes/constitution_du_burkina_faso.htm) (Last visited 20 December, 2010).

<sup>245</sup> French original available at: [http://www.accpuf.org/images/pdf/cm/cotedivoire/031-tf-txt\\_const.pdf](http://www.accpuf.org/images/pdf/cm/cotedivoire/031-tf-txt_const.pdf) (Last visited 20 December, 2010).

<sup>246</sup> Available at: <http://www.sdn.org.mw/constitut/intro.html> (Last visited 20 December, 2010).

<sup>247</sup> Portuguese original available at: <http://www.mozambique.mz/pdf/constituicao.pdf> (Last visited 19 May 2011).

<sup>248</sup> French original available at: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=195947](http://www.wipo.int/wipolex/en/text.jsp?file_id=195947) (Last visited 13 April 2011)



## **Article 16**

The composition of the Government of Burundi must ensure that all Burundians are represented and that it represents all citizens; that everyone has an equal opportunity to be part of it; that all citizens have access to public services, and the decisions and actions of the Government receives the broadest possible support of the population.

## **ETHIOPIA**

***Constitution of the Federal Republic of Ethiopia, 1994***<sup>249</sup>

### **Article 90: Social Objectives**

1. To the extent the country's resources permit, policies shall aim to provide all Ethiopians access to public health and education, clean water, housing, food and social security.

[...]

## **(THE) GAMBIA**

***The Constitution of the Gambia, 1996, as last amended 2001***<sup>250</sup>

### **Article 216**

4. The State shall endeavour to facilitate equal access to clean and safe water, adequate health and medical services, habitable shelter, sufficient food and security to all persons.

## **GHANA**

***The Constitution of the Republic of Ghana, 1992***<sup>251</sup>

### **Article 35**

[...]

3. The State shall promote just and reasonable access by all citizens to public facilities and services in accordance with law.

## **UGANDA**

***Constitution of the Republic of Uganda, 1995, last amended by Constitution Amendment Act No. 2 of 2005***<sup>252</sup>

### **XIV. General social and economic objectives.**

The State shall endeavour to fulfil the fundamental rights of all Ugandans to social justice and economic development and shall, in particular, ensure that –

a) all developmental efforts are directed at ensuring the minimum social and cultural wellbeing of the people; and

b) all Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security and pension and retirement benefits.

### **XXI. Clean and safe water.**

The State shall take all practical measures to promote a good water management system at all levels.

## **ZAMBIA**

<sup>249</sup> Available at: [http://www.servat.unibe.ch/icl/et00000\\_.html](http://www.servat.unibe.ch/icl/et00000_.html) (Last visited 20 December, 2010).

<sup>250</sup> Available at: <http://www.ncce.gm/files/constitution.pdf> (Last visited 20 December, 2010).

<sup>251</sup> Available at: [http://www.judicial.gov.gh/constitution/chapter/chap\\_4.htm](http://www.judicial.gov.gh/constitution/chapter/chap_4.htm) (Last visited 20 December, 2010).

<sup>252</sup> Available at: [http://www.ugandawiki.ug/images/Constitution\\_1995.pdf](http://www.ugandawiki.ug/images/Constitution_1995.pdf) (Last visited 20 December, 2010).

***The Constitution of Zambia, 1991, as last amended by Act 1996*<sup>253</sup>**

**Article 112 [Directive Principles of State Policy]**

The following shall be the Principles of State Policy [...]:

[...]

d) the State shall endeavour to provide clean and safe water, adequate medical and health facilities and decent shelter for all persons, and take measures to constantly improve such facilities and amenities;

[...]

i) the State shall promote sustenance, development and public awareness of the need to manage the land, air and water resources in a balanced and sustainable manner for the present and future generation; and

[...]

***1.1.b. Non-discrimination and attention to vulnerable and marginalized groups***

**SENEGAL**

***Constitution of the Republic of Senegal, 2001, as last amended by Constitutional Law n° 2008-34 of 7 August 2008 (Unofficial translation)*<sup>254</sup>**

**Preamble**

**The People of sovereign Senegal**

Proclaim:

- equal access for all citizens to public services; [...]

**BURUNDI**

***Constitution of the Republic of Burundi, 2005 (Unofficial translation)*<sup>255</sup>**

**Article 141**

All government employees and officials must exercise their functions, so as to serve all users of public services, in an efficient, impartial and equitable manner. [...]

**Article 187**

The Senate is endowed with the following responsibilities:

[...]

4. Conduct investigations in public administration and, where appropriate, make recommendations to ensure that no region or group is excluded from receiving public services;

**KENYA**

***The Constitution of Kenya, 2010*<sup>256</sup>**

**Article 56**

The State shall put in place affirmative action programmes designed to ensure that minorities and marginalized groups-

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<sup>253</sup> Available at: <http://aceproject.org/ero-en/regions/africa/ZM/Constitution%20of%20Zambia%201996.pdf> (Last visited 20 December, 2010).

<sup>254</sup> French original available at: <http://www.au-senegal.com/IMG/pdf/Constitution-senegal-juin2009.pdf> (Last visited 20 December, 2010).

<sup>255</sup> French original available at: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=195947](http://www.wipo.int/wipolex/en/text.jsp?file_id=195947) (Last visited 20 December, 2010).

<sup>256</sup> Available at: [http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Constitution\\_of\\_Kenya\\_\\_2010.pdf](http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Constitution_of_Kenya__2010.pdf) (Last visited 14 April 2011)

(e) have reasonable access to water, health services and infrastructure.

## **1.2. National Laws and Policies – Africa**

### ***1.2.a. Recognition of the right to safe drinking water and sanitation***

#### **Explicit recognition**

##### **ALGERIA**

***Water Law no. 05-12, 4 August 2005 (Unofficial translation)***<sup>257</sup>

**Article 3 (access to water based on equity; replaces article 9 of Law no 83-17, 1983)**

The principles on which the use, the management and the sustainable development of water resources are based are the following:

- the right to access water and sanitation to satisfy the basic needs of the population respecting equity and the rules set forth by this law [...];
- the right to use water resources, granted to any physical or moral person in public or private law [...];

##### **ANGOLA**

***Water Act, 21 June 2002 (Unofficial Translation)***<sup>258</sup>

**Article 9: Principles for the management of water resources**

The management of water resources is governed by the following principles:  
the right of citizens and legal entities to water;

##### **BURKINA FASO**

***Framework law on Water Management, Law No. 002-2001 (Unofficial translation)***<sup>259</sup>

**Article 2**

The law acknowledges the right of everyone to be able to use water corresponding to their needs and for the basic requirements of life and dignity.

##### **CENTRAL AFRICAN REPUBLIC**

***Water Code 2006; LAW No 06.001 of 12 April 2006 (Unofficial translation)***<sup>260</sup>

**Art. 40:** This Act gives every citizen the right to access water to fulfill the basic needs and demands of a person's life and dignity.

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<sup>257</sup> French original version available at: [http://www.droit-afrique.com/images/textes/Algerie/algerie\\_loi\\_eau.pdf](http://www.droit-afrique.com/images/textes/Algerie/algerie_loi_eau.pdf) (Last visited 22 December, 2010).

<sup>258</sup> Portuguese original available at: <http://faolex.fao.org/docs/pdf/ang63753.pdf> (Last visited 14 April 2011)

<sup>259</sup> French original version available at: <http://www.agora21.org/grn-lcd/burkina/codeau.rtf> (Last visited 22 December, 2010).

<sup>260</sup> French original available at: <http://www.glin.gov/search.action> (enter search: "central african republic, l'eau") (Last visited 14 April 2011)

## **GHANA**

***National Water Policy, June 2007***<sup>261</sup>

### **2.2.2 Focus area 2 – Access to water**

Principles and Challenges

The main principles and challenges include:

- (i) The fundamental right of all people without discrimination to safe and adequate water to meet basic human needs;
- [...]

## **GUINEA**

***Water Code, Law No. L/94/005/CTRN of 14 February 1994 (Unofficial translation)***<sup>262</sup>

### **Article 6**

- 1. Subject to the provisions in article 4 of this law, everyone has an inalienable right to access water resources and a right to use them for domestic purposes.

## **KENYA**

***The National Water Services Strategy (NWSS), 2007 -2015***<sup>263</sup>

### **Foreword**

[...] Safe water and basic sanitation must be regarded as a basic human right and should therefore be accessible and affordable to all. [...]

### **3.4 Key principles of the National Water Services Strategy**

The guiding principles for the water sector reform and therefore for the National Water Services Strategy are:

- 1. Sustainable access to safe water and basic sanitation is a human right. [...]

## **LESOTHO**

***Lesotho Water and Sanitation Policy, 2007***<sup>264</sup>

### **Principles**

The guiding principles of the Lesotho Water and Sanitation Policy are:

- F. All the Basotho are entitled to have access to a sustainable supply of potable water and to the provision of basic sanitation services at an affordable cost;

## **MAURITANIA**

***Water Code, Law No. 2005-030 (Unofficial translation)***<sup>265</sup>

### **Article 2**

[...]

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<sup>261</sup> Available at: <http://www.water-mwrwh.com/WaterPolicy.pdf> (Last visited 22 December, 2010).

<sup>262</sup> French original version available at: <http://faolex.fao.org/docs/texts/gui4825.doc> (Last visited 22 December, 2010).

<sup>263</sup> Available at: [http://www.cohre.org/store/attachments/RWP%20-%2020070802\\_Final%20NWSS\\_Cover%20and%20Executive%20Summary.pdf](http://www.cohre.org/store/attachments/RWP%20-%2020070802_Final%20NWSS_Cover%20and%20Executive%20Summary.pdf)

<sup>264</sup> Original available at: <http://trc.org.ls/wp-content/uploads/2011/05/Lesotho-Water-and-Sanitation-Policy.pdf> (Last visited 31 May 2011)

<sup>265</sup> French original version available at: <http://faolex.fao.org/docs/texts/mau69252.doc> (Last visited 22 December, 2010).

2. The usage of water is a right recognised for all, within the framework of laws and regulations.

[...]

4. The State policy aims to ensure access to drinking water to the populations. [...]

## **NAMIBIA**

***Water Resources Management Act, Act No. 24 of 2004***<sup>266</sup>

### **3. Fundamental principles**

This Act must be interpreted, and be reasonably and fairly applied, in a manner that is consistent with and promotes the following fundamental principles -

[...]

(c) essentiality of water in life, and safe drinking water a basic human right;

[...]

## **SOUTH AFRICA**

***Water Services Act, Act 108 of 1997, as last amended 2004***<sup>267</sup>

### **Section 3: Right of access to basic water supply and basic sanitation**

1. Everyone has a right of access to basic water supply and basic sanitation.

2. Every water services institution must take reasonable measures to realise these rights.

3. Every water services authority must, in its water services development plan, provide for measures to realise these rights.

## **Implicit recognition**

## **CAMEROON**

***Water Code, Law No. 98-005, 14 April 1998 (Unofficial translation)***<sup>268</sup>

### **Article 2**

1. Water is part of the common heritage of the nation; the State provides its protection and management and must facilitate access to water for everyone.

## **MADAGASCAR**

***Water Code, Law No. 98-029, January 1999 (Unofficial translation)***<sup>269</sup>

### **Article 37**

The public service of drinking water supply and collective sanitation of domestic wastewaters, as defined in the present chapter as “public water and collective sanitation service”, is a service of drinking water supply and collective sanitation of domestic wastewaters provided to the public, that is for every physical or legal person under public or private law, with public service obligations as defined in the tariff schedule.

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<sup>266</sup> Available at: <http://faolex.fao.org/docs/pdf/nam61956.pdf> (Last visited 22 December, 2010).

<sup>267</sup> Available at: <http://www.mangaung.co.za/Legal-Services/Documents/Water-Services-Act.PDF> (Last visited 22 December, 2010).

<sup>268</sup> French original version available at: <http://www.droit-afrique.com/images/textes/Cameroun/Cameroun%20-%20Loi%20eau.pdf> (Last visited 22 December, 2010).

<sup>269</sup> French original available at: [http://www.pseau.org/outils/ouvrages/code\\_eau\\_madagascar.pdf](http://www.pseau.org/outils/ouvrages/code_eau_madagascar.pdf) (Last visited 13 April, 2011).

The public service is responsible for the universal provision of drinking water, which is based on the obligation to supply all users with a minimum amount and a minimum service of drinking water.

#### 1.2.b. Non-discrimination and attention to vulnerable and marginalized groups

### **CONGO (Republic of the Congo – Brazzaville)**

***Water Code, Law No. 13-2003, 10 April 2003 (Unofficial translation)***<sup>270</sup>

#### **Article 53**

The public water service is based on the principle of equality; differences in the treatment of the management of the service can only be justified by an objective difference in circumstance with respect to the service provided. [...]

### **LESOTHO**

***Lesotho Water and Sanitation Policy, 2007***<sup>271</sup>

#### **Objectives**

4. To promote equity in access to water supply and sanitation services taking into account vulnerable and marginalized groups including women, girls and all those affected by HIV/AIDS; [...]

### **LESOTHO**

***Water Act, 2008***<sup>272</sup>

#### **Article 3**

In carrying out the duties and functions under this Act, the Minister, line Ministries and water management institutions shall take account of and, as far as practicable, give effect to the following general principles applicable to the effective management, conservation and protection of water resources – [...]

(b) intergenerational equity [...]

(d) equitable distribution of water and sanitation services [...]

(h) integration of environmental and social issues into water resources management, among them, HIV/AIDS and gender mainstreaming; and [...]

### **LESOTHO**

***Interim Strategy for the water and sanitation sector in Lesotho, 2010-2012***<sup>273</sup>

#### **Preface**

[...]

Properly focused programmes should allow particularly the poor to have access to potable water supply and improved sanitation facilities. [...]

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<sup>270</sup> French original version available at: <http://faolex.fao.org/docs/pdf/con88147.pdf> (Last visited 24 January, 2011).

<sup>271</sup> Original available at: <http://trc.org.ls/wp-content/uploads/2011/05/Lesotho-Water-and-Sanitation-Policy.pdf> (Last visited 31 May 2011)

<sup>272</sup> Original available at:

<http://www.orangesenqurak.org/UserFiles/File/National%20Water%20Departments/Lesotho/Lesotho%20Water%20Act%202008.pdf> (Last visited 31 May 2011)

<sup>273</sup> Original available at:

<http://www.lwsims.gov.ls/Pages/PublicDocuments.aspx> (Last visited 31 May 2011)

### 1.18.3

#### **Strategic Aim 1: Access to water supply**

[...]

The rules shall include the aspects of free basic water to vulnerable households in line with the strategies as described in the Water Policy and operational guidelines provided by the CoW.

### **NIGER**

***Decree 2003-145/PRN/MHE/LCD of 18 June 2003 concerning the adoption of the regulation for drinking water services in Niger (Unofficial translation)***<sup>274</sup>

#### **Article 17: Equality of treatment for users**

The SEEN [Société d'Exploitation des Eaux du Niger] is bound to strictly equal treatment of all users, especially when it concerns the supply and the price of drinking water, subject to the nature of the SEEN's offer and the user's application, [...]

### **MOZAMBIQUE**

***Resolution No. 7/95 [approving the National Water Policy] (Unofficial translation)***<sup>275</sup>

#### **2. Main Policies**

##### **a) Basic needs**

The satisfaction of basic needs is of utmost priority and requires the expansion of the water supply and sanitation coverage, with special attention for rural populations and low-income groups.

### **GHANA**

***National Water Policy June 2007***<sup>276</sup>

#### **2.3.10 Focus Area 10 – Emergency and extreme events**

[...]

Policy measures and/or actions

In order to assure the preparedness of the urban water sub-sector in responding to extreme events and disasters, Government will:

[...]

(ii) Make every effort to facilitate the delivery of adequate quantity of water for public emergency event in the timeliest manner possible; and

(iii) Make sure that water supplied for public emergency event takes precedence over supplies for domestic consumers while taking steps to prevent and reduce conflicts of demand and access.

### **MOROCCO**

***Water Law, Law No. 10-95, 1995 (Unofficial translation)***<sup>277</sup>

#### **Article 86**

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<sup>274</sup>, French original version available at: <http://faolex.fao.org/docs/pdf/ner65662.pdf> (Last visited 24 January, 2011).

<sup>275</sup> Portuguese original available at: <http://faolex.fao.org/docs/pdf/moz22146.pdf> (Last visited 24 January, 2011).

<sup>276</sup> Available at: <http://www.water-mwrwh.com/WaterPolicy.pdf> (Last visited 24 January, 2011).

<sup>277</sup> French original version available at: [http://www.mtpnet.gov.ma/dgh/loi\\_instit/loi\\_eau/chap10.htm](http://www.mtpnet.gov.ma/dgh/loi_instit/loi_eau/chap10.htm) (Last visited 24 January, 2011).

In the event of water shortage due to overexploitation or exceptional events such as droughts, the administration shall [...] enact temporary local regulations designed to secure the provision of water to the population and to animals as a matter of priority.

## **NIGER**

**Water Law, Law No. 93-014 of 2 March 1993 (Unofficial translation)<sup>278</sup>**

### **Article 9**

In times of severe drought, the local Authority may prohibit water intensive activities not intended for direct human consumption, including the watering of gardens[...]

## **1.2.c. Participation and access to information**

## **CÔTE D'IVOIRE**

**The 1998 Water Code, Law No. 98-755 of 23 December 1998 (Unofficial Translation)<sup>279</sup>**

### **Article 6**

The present Law on Water Code adheres to the principles enshrined in the integrated management of water resources which are the principles of precaution, prevention, correction, participation, user pays, polluter pays, planning and cooperation.

### **Article 9**

Management and development of water resources, facilities and water works must involve at all levels:

planners, policy makers and experts in the field, operators, users

## **LESOTHO**

**Water Act, 2008<sup>280</sup>**

### **Article 3**

In carrying out the duties and functions under this Act, the Minister, line Ministries and water management institutions shall take account of and, as far as practicable, give effect to the following general principles applicable to the effective management, conservation and protection of water resources –

(e) Public participatory approach

## **Public access to information**

### **Article 31**

A water management institution shall, at its own expense, make information at its disposal available to the public in an appropriate manner in respect of-

(d) Any other information that the public needs to know under this Act subject to such limitations relating to public security or commercial confidentiality as may be appropriate.

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<sup>278</sup> French original version available at: <http://faolex.fao.org/docs/pdf/ner1328.pdf> (Last visited 24 January, 2011).

<sup>279</sup> French original version available at: [faolex.fao.org/docs/texts/ivc15630.doc](http://faolex.fao.org/docs/texts/ivc15630.doc) (Last visited 10 October 2011)

<sup>280</sup> Original available at:

<http://www.orangesenqurak.org/UserFiles/File/National%20Water%20Departments/Lesotho/Lesotho%20Water%20Act%202008.pdf> (Last visited 31 May 2011)



## **NAMIBIA**

***Water Resources Management Act, Act No. 24 of 2004***<sup>281</sup>

### **Fundamental principles**

3. This Act must be interpreted, and be reasonably and fairly applied, in a manner that is consistent with and promotes the following fundamental principles –

[...]

(f) openness and transparency, by making available water resources information accessible to the public;

[...]

## **NAMIBIA**

***Water Supply and Sanitation Policy, Ministry of Agriculture, Water and Forestry***

***Namibia, July 2008***<sup>282</sup>

### **2.2 Overall sectoral policy statement**

3. Communities should have the right, with due regard for environmental needs and the resources and information available, to determine which water and sanitation solutions and service levels are acceptable to them within the boundaries of the national guidelines. Beneficiaries should contribute towards the cost of the water and sanitation services they desire at increasing rates for standards of living exceeding the levels required for providing basic needs.

## **SÃO TOMÉ AND PRÍNCIPE**

***Law on the Environment, Law No. 10/1999 (Unofficial translation)***<sup>283</sup>

### **Article 8: Principle of access to information**

1. The right to information is an essential requirement for the participation of citizens in decision-making on the environment and development.

2. Everyone has the right to adequate access to information held by authorities concerning the environment.

[...]

4. The State must facilitate and promote awareness and public participation, and disseminate information widely.

## **SOUTH AFRICA**

***Water Services Act, Act 108 of 1997, as last amended 2004***<sup>284</sup>

### **Section 67: Establishment of national information system**

1. The Minister must ensure that there is a national information system on water services.

2. The information system may form part of a larger system relating to water generally.

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<sup>281</sup> Available at: <http://faolex.fao.org/docs/pdf/nam61956.pdf> (Last visited 24 January, 2011).

<sup>282</sup> Water Supply and Sanitation Policy, Ministry of Agriculture, Water and Forestry Namibia, July 2008, File Number: 7/3/78/P, see: <http://www.orangesenqurak.com/governance/water+governance+orange+senqu+basi/national+water+laws/namibia.aspx> (Last visited 14 April 2011)

<sup>283</sup> Portuguese original version available at: <http://www.anp-stp.gov.st/pt/wp-content/uploads/2009/11/Lei-10.99-Lei-Base-Ambiente.pdf> (Last visited 24 January, 2011).

<sup>284</sup> Available at: <http://www.info.gov.za/view/DownloadFileAction?id=70766> (Last visited 25 January, 2010).

3. The public is entitled to reasonable access to the information contained in the national information system, subject to limitations necessitated by the rights enshrined in Chapter 2 of the Constitution.
4. The Minister must take reasonable steps to ensure that information provided is in an accessible format.

## **ANGOLA**

***Water Act, 21 June 2002 (Unofficial translation)***<sup>285</sup>

**Article 9** (Principles for the management of water resources)

1. The management of water resources is governed by the following principles:

[...]

- e) institutional coordination and participation of communities;

[...]

2. The implementation of these principles shall be ensured by the State and by all stakeholders in management and usage of water, in accordance with this Law and its regulations.

## **MOZAMBIQUE**

***Resolution No. 7/95 [approving the National Water Policy] (Unofficial translation)***<sup>286</sup>

### **2. Main Policies**

[...]

- b) Participation of beneficiaries

The participation of beneficiaries throughout the period of planning and implementation phases and the management of the operation and its maintenance shall facilitate the effective utilisation of resources, infrastructures and the availability of adequate service levels. The objective is to provide services in accordance with the wishes of the beneficiaries and their capacity to pay, as well as to improve the sustainability of the systems. [...]

[...]

## **SÃO TOMÉ AND PRÍNCIPE**

***Law on the Environment, Law No. 10/1999 (Unofficial translation)***<sup>287</sup>

### **Article 7: Principle of Participation**

1. Citizens and various social groups shall be involved in the formulation and implementation of environment and development policies.
2. The State must ensure the participation of citizens and stakeholders in the decision-making process.

## **ZIMBABWE**

***Water Act, 1998***<sup>288</sup>

### **Part I: Preliminary**

[...]

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<sup>285</sup> Portuguese original available at: [http://www.lexadin.nl/wlg/legis/nofr/oeur/arch/ang/lei\\_aguas.pdf](http://www.lexadin.nl/wlg/legis/nofr/oeur/arch/ang/lei_aguas.pdf) (Last visited 24 January, 2011).

<sup>286</sup> Portuguese original available at: <http://faolex.fao.org/docs/pdf/moz22146.pdf> (Last visited 25 January, 2011).

<sup>287</sup> Portuguese original version available at: <http://www.anp-stp.gov.st/pt/wp-content/uploads/2009/11/Lei-10.99-Lei-Base-Ambiente.pdf> (Last visited 25 January, 2011).

<sup>288</sup> Available at: <http://www.ielrc.org/content/e0310.pdf> (Last visited 25 January, 2011).

## **6. General functions of Minister**

[...]

(2) In the performance of his functions in terms of subsection (1), it shall be the duty of the Minister -

[...]

(c) to encourage participation by consumers in all the sectors referred to in paragraph (c) of subsection (1) and catchment councils in the development, exploitation and distribution of water resources;

[...]

## **KENYA**

***The Water Act 2002, No 8 of 2002***<sup>289</sup>

Water Service Strategies

### **50**

(1) The national water services strategy shall provide for national monitoring and information systems on water services.

(6) on the payment of the prescribed fee, any member of the public

(a) shall have access to information contained in any national information system; and

(b) shall be supplied with the copy of the Regulatory Board's annual report.

## **GHANA**

***National Water Policy, June 2007***<sup>290</sup>

### **2.2.2 Focus Area 2 – Access to Water**

#### **Principles and Challenges**

The main principles and challenges include:

(i) the fundamental right of all people without discrimination to safe and adequate water to meet basic human needs;

(ii) ensuring a minimum water requirement for the maintenance of health and wellbeing is assured.

#### **Policy Objectives**

The policy objectives are to;

(i) facilitate improving access to potable water without discrimination; and

(ii) enhance the management and development of water resources in a manner which, as first priority, safeguards that the entire population, particularly the poor and vulnerable, will have access to adequate and potable water.

### **1.2.d. Accountability**

## **SOUTH AFRICA**

***Water Services Act, Act 108 of 1997, amended 2004***<sup>291</sup>

### **Section 62: Monitoring of water services institutions**

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<sup>289</sup>Original available at:

[http://www.water.go.ke/index.php?option=com\\_docman&task=cat\\_view&gid=48&Itemid=62](http://www.water.go.ke/index.php?option=com_docman&task=cat_view&gid=48&Itemid=62) (Last visited 19 October, 2011)

<sup>290</sup> Available at: <http://www.water-mwrwh.com/WaterPolicy.pdf> (Last visited 25 January, 2011).

<sup>291</sup> Available at: <http://www.mangaung.co.za/Legal-Services/Documents/Water-Services-Act.PDF> (Last visited 14 April 2011)

### **Section 63: Intervention**

(1) If a water services authority has not effectively performed any function imposed on it by or under this Act, the Minister may, in consultation with the Minister for Provincial Affairs and Constitutional Development, request the relevant Province to intervene in terms of section 139 of the Constitution.

(2) If, within a reasonable time after the request, the Province—

(a) has unjustifiably failed to intervene; or

(b) has intervened but has failed to do so effectively,

the Minister may assume responsibility for that function to the extent necessary—

(i) to maintain essential national standards;

(ii) to meet established minimum standards for providing services; or

to prevent that Province from taking unreasonable action that is prejudicial to the interests of another province or the country as a whole [...]

### **KENYA**

#### ***The Water Act 2002, No 8 of 2002***<sup>292</sup>

**47.** The Regulatory Board shall have the following powers and functions—

[...]

(c) to establish procedures for handling complaints made by consumers against licensees;

### **NAMIBIA**

#### ***Water Resources Management Act, Act No. 24 of 2004***<sup>293</sup>

##### **Reliability of Water Supply**

**26.**

1. The Minister must ensure that all Namibians are provided with an affordable and a reliable water supply that is adequate for basic human needs.

2. For the purposes of ensuring the adequacy, affordability and reliability of water supply, the Minister must -

a) develop reliable standards of performance and facilities that are applicable to any person who supplies water for domestic, commercial, industrial or agricultural use;

b) periodically review the performance of every person who supplies water for domestic, commercial, industrial or agricultural use to evaluate compliance with the standards of performance developed pursuant to subparagraph (a);

c) take corrective action with regard to any water supplier who fails to meet a standard of performance, that may include –

(i) the secondment of managerial or technical personnel;

(ii) the repair or replacement of water supply works; or

(iii) the amendment, suspension or cancellation of any relevant licence to abstract and use water, and

d) establish an administrative mechanism that will enable water users to be heard regarding the adequacy and reliability of their water supply.

3. If the Minister incurs any expense in taking any corrective action under subsection (2)(c), the Minister may recover any loss from the water supplier.

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<sup>292</sup>Original available at:

[http://www.water.go.ke/index.php?option=com\\_docman&task=cat\\_view&gid=48&Itemid=62](http://www.water.go.ke/index.php?option=com_docman&task=cat_view&gid=48&Itemid=62) (Last visited 19 October, 2011)

<sup>293</sup> Available at: <http://faolex.fao.org/docs/pdf/nam61956.pdf> (Last visited 25 January, 2011).

## **GHANA**

### ***Public Utilities (Complaints Procedure) Regulation 1999***<sup>294</sup>

#### **Form of Complaint**

1.

1. Any person may file a complaint concerned with a service provided by a public utility to the public utility Regulatory Commission referred to in these Regulations as the "Commission".

2. A complaint to the Commission may be in writing or given orally.

3. A written complaint shall be addressed to the commission.

4. Where an oral complaint is made or where the complainant cannot read or write, the complaint shall be reduced into writing by an officer of the commission designated to receive the complaint or by any person selected by the complainant.

#### ***1.2.e. Accessibility of water and sanitation***

## **CÔTE D'IVOIRE**

### **The 1998 Water Code, Law No. 98-755 of 23 December 1998(Unofficial Translation)**<sup>295</sup>

#### **Article 60**

The State guarantees:

the supply of drinking water,

the protection, conservation and integrated management of water resources,  
the satisfaction of other needs.

The State shall ensure:

the development and protection of facilities and hydraulic structures

prevention and the fight against waterborne diseases.

It exercises, through its relevant departments, the water law enforcement.

## **KENYA**

### ***The National Water Services Strategy (NWSS), 2007-2015***<sup>296</sup>

#### **3.3 Goals of the National Water Services Strategy**

The Goals of the NWSS are:

- to reduce [in urban settings] the time taken to nearest public/communal outlet and back home to an average of 30 minutes.

- reduce [in rural settings] the distance to the nearest public/communal outlet to 2 Km

## **LESOTHO**

### ***Lesotho Water and Sanitation Policy, 2007***<sup>297</sup>

<sup>294</sup> Available at: [http://www.purc.com.gh/legislative\\_instrument\\_1665.php](http://www.purc.com.gh/legislative_instrument_1665.php); (Last visited 14 April 2011)

<sup>295</sup> French original version available at: [faolex.fao.org/docs/texts/ivc15630.doc](http://faolex.fao.org/docs/texts/ivc15630.doc) (Last visited 10 October 2011)

<sup>296</sup> Available at: [http://www.cohre.org/store/attachments/RWP%20-%2020070802\\_Final%20NWSS\\_Cover%20and%20Executive%20Summary.pdf](http://www.cohre.org/store/attachments/RWP%20-%2020070802_Final%20NWSS_Cover%20and%20Executive%20Summary.pdf)

## **Policy Objectives**

The objectives of the Lesotho Water and Sanitation Policy (LWSP) are to promote:

2) Adequate and sustainable supply of potable water and sanitation services to all of the population of Lesotho;

## **Policy Statement 2: Water Supply and Sanitation Services**

*Ensure access to a sustainable supply of potable water and basic sanitation services for all Basotho*

## **MALI**

**Decree No. 01-395/P-RM of 06 September 2001 determining the modalities for the management of wastewater and silt (Unofficial translation)<sup>298</sup>**

### **Article 8**

Dwellings situated in an area equipped with public sewerage and a water supply system must be connected to the sewage system. [...]

## **NAMIBIA**

**Water Resources Management Act, Act No. 24 of 2004<sup>299</sup>**

### **Fundamental principles**

3. This Act must be interpreted, and be reasonably and fairly applied, in a manner that is consistent with and promotes the following fundamental principles -

[...]

b) access by every citizen, within a reasonable distance from their place of abode, to a quantity of water sufficient to maintain life, health and productive activities;

[...]

## **NAMIBIA**

**Water Resources Management Act, Act No. 24 of 2004<sup>300</sup>**

### **Abstraction of water for domestic use**

#### **28.**

1. Subject to subsection (3), a person who abstracts water from a water resource for domestic use is exempted from the acquisition of a licence to abstract and use water.

2. A person may abstract and use water for domestic use, subject only to such public health limitations and environmental limitations, and limitations imposed from time to time for purposes of efficient water management practices.

3. Subsection (1) does not apply to a person who abstracts water in bulk from a water resource and supplies it to others for domestic use.

## **NAMIBIA**

**Water Supply and Sanitation Policy, Ministry of Agriculture, Water and Forestry  
Namibia, July 2008<sup>301</sup>**

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<sup>297</sup> Original available at: <http://trc.org.ls/wp-content/uploads/2011/05/Lesotho-Water-and-Sanitation-Policy.pdf> (Last visited 31 May 2011)

<sup>298</sup> French original version available at: <http://faolex.fao.org/docs/pdf/mli49663.pdf> (Last visited 24 January, 2011).

<sup>299</sup> Available at: <http://faolex.fao.org/docs/pdf/nam61956.pdf> (Last visited 25 January, 2011).

<sup>300</sup> Available at: <http://faolex.fao.org/docs/pdf/nam61956.pdf> (Last visited 27 January, 2011).

## 2.2 Overall sectoral policy statement

1. Essential water supply and sanitation services should become available to all Namibians(..)

### **SOUTH AFRICA**

***Regulations relating to compulsory national standards and measures to conserve water 2001***<sup>302</sup>

#### **3 Basic water supply**

The minimum standard for basic water supply services is –

- a) the provision of appropriate education in respect of effective water use; and
- b) a minimum quantity of potable water of 25 litres per person per day or 6 kilolitres per household per month -
  - (i) at a minimum flow rate of not less than 10 litres per minute;
  - (ii) within 200 metres of a household; and
  - (iii) with an effectiveness such that no consumer is without a supply for more than seven full days in any year.

### **SOUTH AFRICA**

***Water Services Act, Act 108 of 1997, last amended 2004***<sup>303</sup>

#### **Preamble**

**RECOGNIZING** the rights of access to basic water supply and basic sanitation necessary to ensure sufficient water and an environment not harmful to health or well-being;

[...]

#### **Chapter 1:**

##### **Definitions**

In this Act, unless the context shows that another meaning is intended –

[...]

(ii) “basic sanitation” means the prescribed minimum standard of services necessary for the safe, hygienic and adequate collection, removal, disposal or purification of human excreta, domestic waste-water and sewage from households, including informal households; [...]

(iii) “basic water supply” means the prescribed minimum standard of water supply services necessary for the reliable supply of a sufficient quantity and quality of water to households, including informal households, to support life and personal hygiene; [...]

### **CAPE VERDE**

***Water Code, Law No.41/II/84, as amended by Decree No. 5/99 (Unofficial translation)***<sup>304</sup>

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<sup>301</sup> Water Supply and Sanitation Policy, Ministry of Agriculture, Water and Forestry Namibia, July 2008, File Number: 7/3/78/P, see: <http://www.orangesenqurak.com/governance/water+governance+orange+senqu+basi/national+water+laws/namibia.aspx> (Last visited 14 April 2011)

<sup>302</sup> Available at: <http://www.bloemfontein.co.za/docs/Regulations-Water-Conservation.pdf> (Last visited 25 January, 2011).

<sup>303</sup> Available at: <http://www.info.gov.za/view/DownloadFileAction?id=70766> (Last visited 25 January, 2011).

<sup>304</sup> Original Portuguese versions of the original law available at: <http://faolex.fao.org/docs/pdf/CVI10783.pdf> (Last visited 25 January, 2011).

## **Article 61: Licensing exemptions**

The following usages are free and require no licensing:

Water for individual consumption and domestic purposes, coming from any kind of catchment or public reservoirs;

[...]

### **GUINEA**

***Water Code, Law No. L/94/005/CTRN of 14 February 1994 (Unofficial translation)***<sup>305</sup>

**Article 6** - Subject to the provisions of article 4 of the present law, every person has an inalienable right to access water resources and to use them for domestic purposes.

Water resources used exclusively for the needs of natural persons subject to the quantitative limits necessary for human consumption, hygiene, washing and crop or animal production destined for family consumption are to be regarded as domestic usages.

The rights under this section include the usage of water extracted and contained in an individual or collective receptacle. However, the user is required to exercise his/her right in a manner that preserves the availability of the resource in both quantity and quality and does not compromise other users.

### **GUINEA**

### **BISSAU**

***Water Code, Law No. 5-A/92 (Unofficial translation)***<sup>306</sup>

#### **Article 7 (Free use)**

1. For the purpose of satisfying domestic, personal and family necessities, including watering of the cattle and gardening, through traditional means and excluding mechanical means, the land owner or user has the right to freely use rainwater falling over it, and other water in the public domain.

### **SWAZILAND**

***Water Act, Act No. 7 of 2003***<sup>307</sup>

#### **Interpretation**

[...]

“use for primary purpose” means the use of water for domestic requirements, sanitation, the watering of animals not exceeding 30 head of cattle or the irrigation of land not exceeding one-quarter hectare adjoining or occupied with a homestead of not more than 10 persons [...]

[...]

The right in water

34. [...]

[...]

4. It shall not be necessary for any person or community to obtain a permit for the use of water for primary purposes.

<sup>305</sup> French original version available at: <http://faolex.fao.org/docs/texts/gui4825.doc> (Last visited 25 January, 2011).

<sup>306</sup> Portuguese original version available at: <http://faolex.fao.org/docs/pdf/gbs39315.pdf> (Last visited 27 January, 2011).

<sup>307</sup> Available at: <http://faolex.fao.org/docs/texts/swa45031.doc> (Last visited 27 January, 2011).



## **SOUTH AFRICA**

### ***National Water Act, Act 36 of 1998***<sup>308</sup>

#### **Permissible water use**

#### **22.**

1. A person may only use water—  
without a licence —

if that water use is permissible under Schedule 1;

if that water use is permissible as a continuation of an existing lawful use; or

(iii) if that water use is permissible in terms of a general authorisation [...]

if the water use is authorised by a licence under this Act; or

if the responsible authority has dispensed with a licence requirement [...]

[...]

#### **Schedule 1: Permissible Use of Water [Sections 4(1) and 22(1)(a)(i) and Item 2 of Schedule 3]**

(1) A person may, subject to this Act —

a) take water for reasonable domestic use in that person's household, directly from any water resource to which that person has lawful access;

b) take water for use on land owned or occupied by that person, for -

(i) reasonable domestic use;

(ii) small gardening not for commercial purposes; and

(iii) the watering of animals (excluding feedlots) which graze on that land within the grazing capacity of that land, from any water resource which is situated on or forms a boundary of that land, if the use is not excessive in relation to the capacity of the water resource and the needs of other users;

c) store and use run-off water from a roof;

d) in emergency situations, take water from any water resource for human consumption or firefighting;

[...]

## **TANZANIA**

### ***The Water Utilization (Control and Regulations) Act, 1974, as revised 1993***<sup>309</sup>

#### **Right to water for domestic purposes**

#### **10.**

Any person having lawful access to any water may abstract and use the same for domestic purposes. Provided that nothing in this section shall be construed as authorizing the construction of any works.

## **ZAMBIA**

### ***Water Act, 1949***<sup>310</sup>

#### **Part I General**

2. In this Act, unless the context otherwise requires -Interpretation

[...]

<sup>308</sup> Available at: [http://www.dwaf.gov.za/Documents/Legislature/nw\\_act/NWA.pdf](http://www.dwaf.gov.za/Documents/Legislature/nw_act/NWA.pdf) (Last visited 27 January, 2011).

<sup>309</sup> Available at: <http://faolex.fao.org/docs/texts/tan1277.doc> (Last visited 27 January, 2011).

<sup>310</sup> Available at: <http://www.ielrc.org/content/e9706.pdf> (Last visited 27 January, 2011).

“primary use” means the use of water for domestic purposes and the support of animal life (including the dipping of cattle);

[...]

Primary use

8. Any person shall have right to the primary use of public water which is found in its natural channel or bed at such places to which access may be lawfully had.

[...]

## **GUINEA BISSAU**

***Water Code, Law No. 5-A/92 (Unofficial translation)***<sup>311</sup>

### **Article 29 (Sanitation)**

1. Sanitation in populated areas aims to ensure the immediate removal of domestic and industrial wastewater likely to cause harm, and of river waters likely to flood inhabited places, subject to public health requirements and environmental protection.

2. In populated areas with sewage collection, linking households to other establishments of the system is mandatory.

[...]

5. The treatment of residual water before its removal is mandatory in the event that in its untreated state it might affect the good functioning of the public sanitation purification facilities.

## **KENYA**

***The National Water Services Strategy (NWSS), 2007-2015***<sup>312</sup>

### **3.3 Goals of the National Water Services Strategy**

The Goals of the NWSS are:

- To increase sustainable access to safe water complying to the Kenyan standards such as drinking water quality (formal service provision) from 60% to 80% in the urban setting by 2015 and to reduce the time taken to nearest public/communal outlet and back home to an average of 30 minutes.

- To increase sustainable access to water complying to the Kenyan standards such as drinking water quality (formal service provision) from 40% to 75% in the rural setting by 2015 and reduce the distance to the nearest public/communal outlet to 2 Km.

[...]

- To increase access to waterborne sewage collection, treatment and disposal from 30% to 40% in the urban setting and from just under 5% to 10% in the rural setting by 2015

## **SOUTH AFRICA**

***Water Services Act, Act 108 of 1997, as last amended 2004***<sup>313</sup>

### **Duty to prepare draft water services development plan**

#### **12.**

1. Every water services authority must, within one year after the commencement of this Act –

<sup>311</sup> Portuguese original version available at: <http://faolex.fao.org/docs/pdf/gbs39315.pdf> (Last visited 27 January, 2011).

<sup>312</sup> Available at: [http://www.cohre.org/store/attachments/RWP%20-%2020070802\\_Final%20NWSS\\_Cover%20and%20Executive%20Summary.pdf](http://www.cohre.org/store/attachments/RWP%20-%2020070802_Final%20NWSS_Cover%20and%20Executive%20Summary.pdf)

<sup>313</sup> Available at: <http://www.info.gov.za/view/DownloadFileAction?id=70766> (Last visited 27 January, 2011).

[...]

(b) ... prepare –

(i) a draft water services development plan for its area of jurisdiction; and

(ii) a summary of that plan.

[...]

### **Contents of draft water services development plan**

**13.** Every draft water services development plan must contain details–

[...]

(i) of the number and location of persons to whom water services cannot be provided within the next five years, setting out–

(i) the reasons therefore; and

(ii) the time frame within which it may reasonably be expected that a basic water supply and basic sanitation will be provided to those persons; and

(j) of existing and proposed water conservation, recycling and environmental protection measures.

## **SOUTH AFRICA**

***Water Services Act, Act 108 of 1997, amended 2004***<sup>314</sup>

### **Conditions for provision of water services**

**4.** [...]

3. Procedures for the limitation or discontinuation of water services must –

a) be fair and equitable;

b) provide for reasonable notice of intention to limit or discontinue water services and for an opportunity to make representations, unless –

(i) other consumers would be prejudiced;

(ii) there is an emergency situation; or

(iii) the consumer has interfered with a limited or discontinued service; and

c) not result in a person being denied access to basic water services for non-payment, where that person proves, to the satisfaction of the relevant water services authority, that he or she is unable to pay for basic services,

[...]

## **UGANDA**

***The Water Statute, Statute No. 9 of 1995***<sup>315</sup>

### **General rights to use water**

**7.**

1. Subject to Section 8 a person may –

(a) while temporarily at any place; or

(b) being the occupier of or a resident on any land, where there is a natural source of water, use that water for domestic use, fighting fire or irrigating a subsistence garden.

2. In addition to the right to water under subsection (1) the occupier of land or resident on land may, with the approval of the authority responsible for the area, use any water under the land occupied by him or is resident on or any land adjacent to that land.

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<sup>314</sup> Available at: <http://www.info.gov.za/view/DownloadFileAction?id=70766> (Last visited 27 January, 2011).

<sup>315</sup> Available at: <http://faolex.fao.org/docs/pdf/uga5251.pdf> (Last visited 27 January, 2011).

3. The rights under subsections (1) and (2) do not per se authorise a person to construct any works.

## **MAURITANIA**

***Water Code, Law No. 2005-030 (Unofficial translation)***<sup>316</sup>

### **Article 37**

Urban areas must have a collective sanitation system to ensure a rapid and complete drainage of sewage and industrial wastewaters as well as their treatment, under conditions consistent with the requirements of public health and environmental protection norms and conditions.

## **BENIN**

***Public Hygiene Code, Law No. 87-015 of 21 September 1987 (Unofficial translation)***<sup>317</sup>

### **Article 20**

An owner shall provide his/her household with a sewage system for excreta and domestic wastewaters, namely latrines, septic tanks and cesspools.

### **Article 93**

Every industrial unit shall provide a sewage system for solid as well as liquid wastes and sanitation systems, allowing for the personal hygiene of its personnel.

## **1.2.f. Affordability of water and sanitation**

## **LESOTHO**

***Lesotho Water and Sanitation Policy, 2007***<sup>318</sup>

### **Principles**

The guiding principles of the Lesotho Water and Sanitation Policy are: [...]

F. All the Basotho are entitled to have access to a sustainable supply of potable water and to the provision of basic sanitation services at an affordable cost;

## **LESOTHO**

***Interim Strategy for the water and sanitation sector in Lesotho, 2010-2012***<sup>319</sup>

### **Preface**

[...]

The water policy's aim for affordable water services will be operationalised through development of a strategy for implementing free basic water for urban water services including connections, water tariffs and who pays (taxes or tariffs) and a strategy for implementing free basic water for rural water services including the institutional and budget responsibilities. These strategies are very important for the development of self-sustaining water services that are socially acceptable. [...]

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<sup>316</sup> French original version available at: <http://faolex.fao.org/docs/texts/mau69252.doc> (Last visited 22 December, 2010).

<sup>317</sup> French original version available at: <http://faolex.fao.org/docs/texts/ben18701.doc> (Last visited 27 January, 2011).

<sup>318</sup> Original available at: <http://trc.org.ls/wp-content/uploads/2011/05/Lesotho-Water-and-Sanitation-Policy.pdf> (Last visited 31 May 2011)

<sup>319</sup> Original available at: <http://www.lwsims.gov.ls/Pages/PublicDocuments.aspx> (Last visited 31 May 2011)

#### **1.18.4.1.**

##### **1.1.1.1**

#### **Activities**

#### **Access to water Supply**

[...]

Affordability for households to connect is one of the bottlenecks for increasing the access. The Interim Strategy will therefore focus on developing strategies for assuring a minimum of 30 l/capita/day to the poorer households as enshrined in the Water Policy. WASA is already testing different methods for making connections more affordable and this will be intensified. The strategy will focus on increased access to public standpipes using the pre-paid technology and ways of making domestic connections affordable (subsidies, staged payments etc). [...]

#### **1.19.1**

**Objective 1:** To accelerate delivery of water and sanitation services to all Basotho in line with national development;

l) As a way of promoting equity, the Government shall endeavour to ensure that the maximum expenditure on water shall not exceed 5% of disposable income, and that the water service providers apply a uniform tariff in all areas as opposed to regional tariffs;

### **MADAGASCAR**

***Water Code, Law No. 98-029 (Unofficial translation)***<sup>320</sup>

#### **Article 54**

The tariff and cost recovery policies for drinking water and sanitation services must respect the following principles:

[...]

- investment and exploitation costs on the one hand, and users' capacity to pay, on the other, shall be taken into account in the water tariffication principles and the charges for sanitation.

[...]

-The tariff systems shall include provisions ensuring access to the universal supply of drinking water for domestic consumers of the lowest incomes.

### **NAMIBIA**

***Water Supply and Sanitation Policy, Ministry of Agriculture, Water and Forestry, Namibia, July 2008***<sup>321</sup>

#### **2.2 Overall sectoral policy statement**

1. Essential water supply and sanitation services should become available to all Namibians, and should be acceptable and accessible at a cost which is affordable to the country as a whole.

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<sup>320</sup> French original available at: [http://www.pseau.org/outils/ouvrages/code\\_eau\\_madagascar.pdf](http://www.pseau.org/outils/ouvrages/code_eau_madagascar.pdf) (Last visited 13 April, 2011).

<sup>321</sup> Water Supply and Sanitation Policy, Ministry of Agriculture, Water and Forestry

Namibia, July 2008, File Number: 7/3/78/P, see:

<http://www.orangesenqurak.com/governance/water+governance+orange+senqu+basi/national+water+laws/namibia.aspx> (Last visited 14 April 2011)

## **MALI**

***Water Code, Law No. 02-006 of 31 January 2002 (Unofficial translation)***<sup>322</sup>

### **Article 54**

[...]

The rates volumes of water used by domestic consumers must include a social allocation at a preferential tariff for which the level in cubic metres cannot exceed a ceiling set by a Regulation Commission directive. Consumption beyond this social bracket can be charged at progressive rates, consistent with the payment ability of users, the structure of consumption, and the financial viability of the activity.

The supply to street fountains are wholesale supplies and the rates applied must be such that they are applicable to the social allocation for domestic consumption.

The supply to street fountains and their instalment is free of all taxes and local surcharges.

## **MOZAMBIQUE**

***Resolution No. 7/95 [approving the National Water Policy] (Unofficial translation)***<sup>323</sup>

### **2. Main Policies**

[...]

b) Participation of beneficiaries

[...] The aim is to provide services according to the wishes of the beneficiaries and their capacity to pay, thereby improving the sustainability of the systems. [...]

## **ALGERIA**

***Executive Decree 05-13 establishing the rules for tariffication for public water and sanitation services (Unofficial translation)***<sup>324</sup>

### **Article 3**

The pricing of public services concerning potable water and sanitation is to be differentiated according to the territorial tariff zones defined in article 12 below.

It is subject to scales of progressive tariffs taking into account the categories of users and degree of water consumption.

## **MAURITANIA**

***Water Code, Law No. 2005-030 (Unofficial translation)***<sup>325</sup>

### **Article 3**

The management of water resources must be comprehensive, sustainable and balanced.

[...]

The management of water resources is subject to the following principles:

[...]

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<sup>322</sup> French original available at: <http://faolex.fao.org/docs/pdf/mli34988.pdf> (Last visited 17 February 2011).

<sup>323</sup> Portuguese original available at: <http://faolex.fao.org/docs/pdf/moz22146.pdf> (Last visited 17 February, 2011).

<sup>324</sup> French original available at: <http://faolex.fao.org/docs/pdf/alg49964.pdf> (Last visited 17 February, 2011).

<sup>325</sup> French original available at: <http://faolex.fao.org/docs/texts/mau69252.doc>. (Last visited 17 February, 2011).

(5) the principle that the users of public water and sanitation services cover a significant proportion of the costs of these services, depending on the users' ability to pay.

***Water Tariff Scheme, 2000***<sup>326</sup>

**2.1.5. Payment of drinking water services**

4.1 In urban areas, the fee scheme applied to households utilizing a private connection is divided in three domestic tolls, an industrial toll and a street fountain toll: (i) one social charge of consumption below 10 m<sup>3</sup>/per month which enjoys a subsidised cost of 93.5 MRO/m<sup>3</sup> (the subsidy is about 60 per cent of the average price of water, which is about 232 MRO/m<sup>3</sup>); (ii) a domestic charge averaging 10 and 20 m<sup>3</sup>/ per month which enjoys a cost of 185 MRO/m<sup>3</sup> (that is a subsidy of 20 per cent); (iii) a superior domestic charge corresponding to a consumption above 20 m<sup>3</sup>/per month at 232 MRO/m<sup>3</sup>; (iv) a single industrial charge at a 194 MRO/m<sup>3</sup> rate; and (v) a charge for street fountains, of approximately 86 MRO/m<sup>3</sup>.

**SIERRA LEONE**

***Water Company Act, Act No. 6 of 2001***<sup>327</sup>

**Article 37**

[...]

(2) The company may fix different rates for different areas or different classes of consumers.

[...]

**Article 38**

The company shall direct its rating policy towards ensuring that –

[...]

c) rates charged for water supplied to industrial and commercial concerns are higher than those charged for domestic supply in the same locality [...]

[...]

**BURKINA FASO**

***Decree No 2004-580/PRES/PM/MAHRH/MFB governing domestic water uses, 2004 (Unofficial translation)***<sup>328</sup>

**Article 3**

For the purpose of the present decree, the threshold for domestic use is fixed at one hundred (100) litres of (surface water, groundwater) per person per day.

**Article 4**

Any domestic use of water under or equal to the above threshold is exempted from the financial contribution mentioned in article 47 of the aforesaid law.

**RWANDA**

***Interministerial Decree No. OI/MINICOM/MINECOFIN/97 of 30 May 1997 amending interministerial Decree No. OI/MICOMART/MINIFIN/96 of 29/07/1996 fixing the price for the sale of water, electricity and related services offered by***

<sup>326</sup> French original available at: <http://www.hydraulique.gov.mr/NR/rdonlyres/548AF834-1034-4CF2-8D9F-23B8ECF61A35/0/Rapportpaepa.doc> (Last visited 17 February, 2011).

<sup>327</sup> Available at: <http://www.sierra-leone.org/Laws/2001-6.pdf> (Last visited 17 February, 2011).

<sup>328</sup> French original available at: <http://faolex.fao.org/docs/texts/bkf49858.doc> (Last visited 17 February, 2011).

## **ELECTROGAZ and determining the modalities for recovery and use of revenues (Unofficial translation)<sup>329</sup>**

### **Article 1**

[...]

- Consumers who use between 0 and 25 m<sup>3</sup> per month pay 200 FRW per m<sup>3</sup>.

[...]

- The amount to be paid by consumers for water from street fountains cannot exceed 8 FRW for one 20 litre jerry can.

## **RWANDA**

### **Law N°62/2008 of 10/09/2008 putting in place the use, conservation, protection and management of water resources regulations<sup>330</sup>**

#### **Article 76: Pricing**

Modes of the cost recovery of water public service shall respect the following principles:

1° the access to water public service, be it at the boundary-marks' fountains or the individual connexion, must always be payable;

3° competent authorities fix prices and make them public,

4° underprivileged groups are considered in fixing prices,

## **SOUTH AFRICA**

### **Free Basic Water Implementation Strategy, version 2, 2002<sup>331</sup>**

*The Minister of Water Affairs and Forestry announced in February 2001 that government had decided to ensure that poor households are given a basic supply of water free of charge. He said that Cabinet had approved a policy to provide 6 000 litres of safe water per household per month (Kasrils, 2001). There are well recognised public health, equity and gender reasons for ensuring that households have access to a basic level of water supply that is affordable to even the poorest households.*

*The primary intended recipients of free basic water are poor households. Although there is a broader policy commitment to the extension of free basic services to all households the primary target of the policy is poor households for whom free basic services represent a significant poverty alleviation measure.*

*South African standards relating to a 'basic' level of water supply is defined as 25 litres per person per day, which is a level sufficient to promote healthy living. This amounts to about 6 000 litres per household per month for a household of 8 people. This volume of 6 000 litres per month has therefore been set as the target as a 'basic' level for all households in South Africa. This quantity is also regulated as part of the*

<sup>329</sup> French original available at: <http://faolex.fao.org/docs/pdf/rwa12746.pdf> (Last visited 17 February, 2011).

<sup>330</sup> Kinyarwanda/English/French original available at:

<https://my.workflowmax.com/documents/001275/Job/209635/rwa95444.pdf> (Last visited 13 April, 2011)

<sup>331</sup> Department of Water Affairs and Forestry, Free Basic Water Implementation Strategy, available at:

<http://fbs.dplg.gov.za/fbs/site/docs/DocumentLibrary/FBW/FBWImplementStrategyAug2002.pdf?PHPSESSID=4ff7407c9b0a1e8b99ae70b097632b94> (Last visited 27 April 2011). Free Basic Water Project Status, available at: [http://www.dwaf.gov.za/dir\\_ws/fbw/Default.asp?Pageid=7&PageHeading=IMPLEMENTATION%20STATUS&ProvID=0](http://www.dwaf.gov.za/dir_ws/fbw/Default.asp?Pageid=7&PageHeading=IMPLEMENTATION%20STATUS&ProvID=0). (Last visited 27 April 2011)



*national strategy in terms of Sections 9 and 10 of the Water Services Act of 1997 (RSA, 1997)*

## **SOUTH AFRICA**

*DEPARTMENT OF WATER AFFAIRS AND FORESTRY: FREE BASIC SANITATION IMPLEMENTATION STRATEGY, Final (Version 15), 01 October 2008*<sup>332</sup>

The right of access to a basic level of sanitation service is enshrined in the Constitution of South Africa (Act 108 of 1996). Municipalities have an obligation to ensure that poor households are not denied access to basic services due to their inability to pay. However, Municipalities are faced with a challenge of balancing financial resource allocation to the eradication of basic sanitation infrastructure backlog by 2010 and provision of free basic sanitation services to the poor. It is with this in mind that DWAF has developed the Free Basic Sanitation Implementation Strategy. DWAF has acknowledged that given the challenges facing WSA's the household sanitation targets of the Strategic Framework for Water Services may not be met by 2010. In lieu of this, a revised target has been set for 2014 whereby all people in SA must have access to a functioning basic sanitation facility. The 2014 target is inline with the Department of Housing target that all South African's should have access to a house by 2014. The aim of the Free Basic Sanitation Implementation Strategy is to guide Water Service Authorities in providing all citizens with free basic sanitation by 2014.

The strategy is informed by the vision of sanitation for all. For the purposes of the strategy a basic sanitation service is defined as the provision of a basic sanitation facility which is easily accessible to a household, the sustainable operation of the facility, including the safe removal of human waste and wastewater from the premises where this is appropriate and necessary, and the communication of good sanitation, hygiene and related practices. Although there is a broader policy commitment by government to extend the free basic services to *all* households the policy is largely aimed at poor households for whom free basic services represent a significant poverty alleviation measure.

### **1.2.g. Water availability and allocation**

## **BURKINA FASO**

*Decree No 2004-580/PRES/PM/MAHRH/MFB governing domestic water uses, 2004 (Unofficial translation)*<sup>333</sup>

### **Article 3**

For the purpose of the present decree, the threshold for domestic use is fixed at a hundred (100) litres of (surface water, groundwater) per person per day.

## **CÔTE D'IVOIRE**

*The 1998 Water Code, Law No. 98-755 of 23 December 1998(Unofficial Translation)*<sup>334</sup>

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<sup>332</sup> Available at: [http://www.dwa.gov.za/dir\\_ws/waterpolicy/default.asp?nStn=policy\\_detail&Policy=556](http://www.dwa.gov.za/dir_ws/waterpolicy/default.asp?nStn=policy_detail&Policy=556) (Last visited 14 April 2011)

<sup>333</sup> French original available at: <http://faolex.fao.org/docs/texts/bkf49858.doc> (Last visited 17 February, 2011).

<sup>334</sup> French original version available at: [faolex.fao.org/docs/texts/ivc15630.doc](http://faolex.fao.org/docs/texts/ivc15630.doc) (Last visited 10 October 2011)

## **Article 70**

The water supply of the population remains, in all cases, the priority element in the distribution of water resources.

The allocation of water resources must at all times, reflect the social and economic needs of the people.

## **Article 71**

When all human needs are fulfilled, water resource allocation is performed according to other uses.

## **KENYA**

***The National Water Services Strategy (NWSS), 2007-2015***<sup>335</sup>

### **3.4 Key principles of the National Water Services Strategy**

The guiding principles for the water sector reform and therefore for the National Water Services Strategy are:

[...]

4. Water is a social and economic good – water and sanitation service provision for the poor shall be enabled by social tariffs (minimum 20 litres of water per person/day)

[...]

## **SOUTH AFRICA**

***Regulations relating to compulsory national standards and measures to conserve water 2001***<sup>336</sup>

### **Article 3 Basic Water Supply**

The minimum standard for basic water supply services is –

[...]

(b) a minimum quantity of potable water of 25 litres per person per day or 6 kilolitres per household per month -

[...]

## **RWANDA**

***Law N°62/2008 of 10/09/2008 putting in place the use, conservation, protection and management of water resources regulations***<sup>337</sup>

### **Article 7: Priority in water distribution**

The supply of water to the populations shall be the priority in the distribution of water resources.

## **ALGERIA**

***Water Law no. 05-12, 4 August 2005 (Unofficial translation)***<sup>338</sup>

### **Article 2**

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<sup>335</sup> Available at: [http://www.cohre.org/store/attachments/RWP%20-%2020070802\\_Final%20NWSS\\_Cover%20and%20Executive%20Summary.pdf](http://www.cohre.org/store/attachments/RWP%20-%2020070802_Final%20NWSS_Cover%20and%20Executive%20Summary.pdf)

<sup>336</sup> Available at: <http://www.bloemfontein.co.za/docs/Regulations-Water-Conservation.pdf> (Last visited 17 February, 2011).

<sup>337</sup> Kinyarwanda/English/French original available at: <https://my.workflowmax.com/documents/001275/Job/209635/rwa95444.pdf> (Last visited 13 April, 2011)

<sup>338</sup> French original available at: [http://www.droit-afrique.com/images/textes/Algerie/algerie\\_loi\\_eau.pdf](http://www.droit-afrique.com/images/textes/Algerie/algerie_loi_eau.pdf) (Last visited 17 February, 2011).

The objectives assigned to the use, management and sustainable development of water resources are designed to ensure:

- the supply of water through its collection and distribution in a sufficient quantity and necessary quality required to meet by order of priority the needs of the population, the livestock and to cover the farming and industry demands and any other economic and social activities that require the use of water;

[...]

## **ANGOLA**

***Water Act, 21 June 2002 (Unofficial translation)***<sup>339</sup>

### **Article 10: Objectives of water management policies**

2. [...]

guarantee citizens' and legal entities' access to and usage of water resources;

[...]

supply the population with continuous and sufficient drinking water to satisfy their needs for domestic and hygienic needs;

[...]

### **Article 22: Classification of uses**

[...]

2. Common uses shall have priority over private uses.

### **Article 23: Common uses**

1. Common uses are intended to satisfy domestic, personal and familiar needs, including the watering of livestock and subsistence farming, without commercial purposes.

[...]

## **BENIN**

***Water Code, Law No. 87-016 of 21 September 1987 (Unofficial translation)***<sup>340</sup>

### **Article 54**

The distribution of water resources shall at all times take into account the economic and social needs of the populations.

When human requirements for water have been satisfied, the following needs shall be satisfied in this order of importance:

- agricultural needs (livestock, farming);
- industrial needs;
- municipal needs;
- recreational needs;

## **BURKINA FASO**

***Framework law on Water Management, Law No. 002-2001 (Unofficial translation)***<sup>341</sup>

### **Article 1**

Water is a precious resource. Its sustainable management is a national imperative.

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<sup>339</sup> Portuguese original available at: <http://faolex.fao.org/docs/pdf/ang63753.pdf> (Last visited 17 February, 2011).

<sup>340</sup> French original available at: <http://faolex.fao.org/docs/texts/ben1295.doc> (Last visited 18 February, 2011).

<sup>341</sup> French original available at: <http://www.agora21.org/grn-lcd/burkina/codeau.rtf> (Last visited 18 February, 2011).

Water management aims to, while respecting the environment and the priorities as defined by this law:

- ensure the supply of drinking water to the population;

[...]

***Decree No. 2005-191/PRES/PM/MAHRH 4 April 2005 regarding priority uses and authority of government to control and allocate water in case of water shortage (Unofficial translation)***<sup>342</sup>

**Chapter 2: Order of priority for the use of water resources in the event of a penury**

**Article 2**

In the event of water scarcity, the water needs of the population for drinking water and for basic conditions of life and human dignity are given priority.

**Article 3**

When the water requirements of the population for food are satisfied, the hierarchy for other water uses shall be determined by taking into account the local specifics based on principles of equity, subsidiarity and, if possible, participation.

**BURUNDI**

***Government Decree No. 1/41 of 26 November 1992 on the establishment and organisation of the public water domain (Unofficial translation)***<sup>343</sup>

**Article 1**

The purpose of the provisions of this decree is to protect the aquatic environment, preserve the shared water resources and reconcile the interest of all different users. They allow for a balanced management and harmonisation of the rules governing utilisation by public or private persons, so as to:

[...]

2. ensure the drinking water supply of the population and protect the quality of water against any pollution.

[...]

**Article 14**

The use of water is determined by the following order of priority:

- the satisfaction of the drinking water needs of the population
- the satisfaction of the water needs of the agriculture sector, including fishery and fish-farming;
- the satisfaction of the needs of industry; [...]

**CAPE VERDE**

***Water Code, Law No.41/II/84, as amended by Decree No. 5/99 (Unofficial translation)***<sup>344</sup>

**Article 58: Purposes to which the water resources serve**

Water resources are designed to satisfy the needs of the population concerning potable water for domestic purposes and to meet the requirements for the economic and social development of the State, specifically:

<sup>342</sup> French original available at: <http://faolex.fao.org/docs/texts/bkf53273.doc> (Last visited 18 February, 2011).

<sup>343</sup> French original available at: <http://faolex.fao.org/docs/texts/bur1621.doc> (Last visited 18 February, 2011).

<sup>344</sup> Portuguese original of original law available at: <http://faolex.fao.org/docs/pdf/CVI10783.pdf>;

The amendments from the year 1999 can be viewed at: <http://faolex.fao.org/docs/pdf/cvi25626.pdf> (Last visited 18 February, 2011).

a) Basic sanitation and preservation of the environment;  
[...]

#### **Article 59: Priorities**

1. The drinking water supply for the domestic uses of the population is a priority  
[...]

### **CENTRAL AFRICAN REPUBLIC**

***Water Code 2006; LAW No 06.001 of 12 April 2006 (Unofficial translation)***<sup>345</sup>

**Art. 44:** The supply of potable water to the population stays the priority in the allocation of water resources.

### **CHAD**

***Water Code, Law 016/PR of 18 August 1999 (Unofficial translation)***<sup>346</sup>

#### **Article 149**

The allocation of water must at all times take into account the socio-economic needs of the population. The supply of drinking water to the population remains, in any event, the priority issue in the allocation of water resources.

#### **Article 150**

Once human water needs have been satisfied and in so far as the sustainability of this supply has not been compromised, priority will be given to agriculture, forestry and pastoral activities and afforestation projects, [...].

### **ETHIOPIA**

***Ethiopian Water Resources Management Proclamation, Proclamation No. 197/2000***<sup>347</sup>

#### **Article 7: Preference among uses**

1) Domestic uses shall have priority over and above any other water uses.  
[...]

### **GUINEA**

***Water Code, Law No. L/94/005/CTRN of 14 February 1994 (Unofficial translation)***<sup>348</sup>

#### **Article 20**

Subject to the public interest, the use of water resources for drinking water has an absolute priority.

Except for the priority given to drinking water, in principle no priority is established between other types of usage.

[...]

### **IVORY COAST**

***Water Code, Law No. 98-755 of 23 December 1998 (Unofficial translation)***<sup>349</sup>

#### **Article 70**

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<sup>345</sup> French original available at: <http://www.glin.gov/search.action> (enter: "central african republic, l'eau") (Last visited 14 April 2011)

<sup>346</sup> French original available at: <http://faolex.fao.org/docs/texts/cha18685.doc> (Last visited 18 February, 2011).

<sup>347</sup> Available at: <http://faolex.fao.org/docs/pdf/eth44004.pdf> (Last visited 18 February, 2011).

<sup>348</sup> French original available at: <http://faolex.fao.org/docs/texts/gui4825.doc> (Last visited 18 February, 2011).

<sup>349</sup> French original available at: <http://faolex.fao.org/docs/texts/ivc15630.doc> (Last visited 18 February, 2011).

The supply of water to the population, remains, at all times, the priority when considering the allocation of water resources. The allocation of water resources must, at all times, take into account the socio-economic needs of the populations.

#### **Article 71**

Once human water needs have been satisfied, the allocation of resources will be dealt in accordance with other uses.

### **LESOTHO**

#### **Water Act, 2008<sup>350</sup>**

#### **Article 5**

(2) In the case of conflicting water use and if water is insufficient to cater for other uses, domestic use shall prevail and be given first preference over other uses.

#### **Article 13**

(2) a reserve shall comprise –

(a) the basic human needs reserve representing the quantity and quality of water resources required to satisfy the basic human needs of those dependent on the concerned water resource; and

### **MADAGASCAR**

#### ***DECREE No. 2003-941 concerning monitoring of water resources, control of water destined for human consumption and priorities of access to water resources (Unofficial translation)*<sup>351</sup>**

#### **Article 1**

The water supply remains, at all times, the element of priority in the allocation of water resources.

The allocation of water resources must, at all times, take into account the social and economic needs of the population.

#### **Article 2**

When human water needs have been satisfied, the resource shall be allocated with regard to other uses.

### **MAURITANIA**

#### ***Water Code, Law No. 2005-030 (Unofficial translation)*<sup>352</sup>**

#### **Article 5**

(1) Populations shall be prioritised in the allocation of water resources.

(2) When human water needs have been satisfied and in so far as the sustainability of this supply has not been compromised, priority will be given, following local priorities, to farming, agriculture, forestry, fish farming, continental fishing, reforestation projects and, lastly, to industrial, mining and industrial food complexes.

(3) Other needs shall be satisfied according to their economic interests and local priorities.

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<sup>350</sup> Original available at:

<http://www.orangesenqurak.org/UserFiles/File/National%20Water%20Departments/Lesotho/Lesotho%20Water%20Act%202008.pdf> (Last visited 31 May 2011)

<sup>351</sup> French original available at: <http://www.edbm.gov.mg/texte-33> (Last visited 13

April 2011)

<sup>352</sup> French original version available at: <http://faolex.fao.org/docs/texts/mau69252.doc>. (Last visited 14 April 2011)

## **SENEGAL**

***Water Code, Law No. 81-13, 1981 (Unofficial translation)***<sup>353</sup>

### **Article 75**

The allocation of water resources must at all times take into account the socio-economic needs of the population.

The provision of water to the population remains at all times the issue of priority in the allocation of water resources.

### **Article 76**

When human water needs have been satisfied, priority will be given to farming, agriculture, forestry, fish farming and reforestation projects, then, to industrial and industrial food complexes.

## **TUNISIA**

***Water Code, Law No. 75-16, 1975, as last amended by Law 2001-116 (Unofficial translation)***<sup>354</sup>

### **Article 86**

[...]

(2) The State is obliged, however, to reserve in time, the amounts of water necessary to ensure a satisfactory – regarding both quantity and quality – provision of the population with drinking water.

## **UGANDA**

***The Water Statute, Statute No. 9 of 1995***<sup>355</sup>

### **4. - Objective**

The objectives of the Statute are;

[...]

(b) to promote the provision of a clean, safe and sufficient supply of water for domestic purposes to all persons; [...]

## **ZIMBABWE**

***Water Act, 1998***<sup>356</sup>

### **Preliminary**

“primary purposes,” in relation to the use of water, means the reasonable use of water -

(a) for basic domestic human needs in or about the area of residential premises; or

(b) for the support of animal life, other than fish in fish farms or animals or poultry in feedlots; [...]

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<sup>353</sup> French original version available at: [http://www.gouv.sn/IMG/pdf/code\\_eau.pdf](http://www.gouv.sn/IMG/pdf/code_eau.pdf) (Last visited 14 April 2011)

<sup>354</sup> French original version available at: <http://faolex.fao.org/docs/pdf/tun1309F.pdf>. (Last visited 14 April 2011)

<sup>355</sup> Available at: <http://faolex.fao.org/docs/pdf/uga5251.pdf>. (Last visited 14 April 2011)

<sup>356</sup> Available at: <http://www.ielrc.org/content/e0310.pdf> (Last visited April 2011)

For similar provisions, *see also*:

Ghana, Water Use Regulations, LI 1692 of 2001, article 7;<sup>357</sup>

Kenya, Water Act, Act No. 8 of 2002, article 32;<sup>358</sup>

South Africa, Water Services Act, Act 108 of 1997, section 5.<sup>359</sup>

## **SOUTH AFRICA**

### ***Regulations relating to compulsory national standards and measures to conserve water, 2001***<sup>360</sup>

#### **Section 3**

The minimum standard for basic water supply services is –

- (a) the provision of appropriate education in respect of effective water use; and
- (b) a minimum quantity of potable water of 25 litres per person per day or 6 kilolitres per household per month –
  - (i) at a minimum flow rate of not less than 10 litres per minute;
  - (ii) within 200 metres of a household; and
  - (iii) with an effectiveness such that no consumer is without a supply for more than seven full days in any year.

## **SOUTH AFRICA**

### ***National Water Act, Act 36 of 1998***<sup>361</sup>

#### **Section 26: Regulations on use of water**

(1) Subject to subsection (4), the Minister may make regulations –

- (a) limiting or restricting the purpose, manner or extent of water use;
- (b) requiring that the use of water from a water resource be monitored, measured and recorded;

[...]

(4) When making regulations, the Minister must take into account all relevant considerations, including the need to–

- (a) promote the economic and sustainable use of water;
- (b) conserve and protect water resources or, instream and riparian habitat;
- (c) prevent wasteful water use;
- (d) facilitate the management of water use and waterworks;
- (e) facilitate the monitoring of water use and water resources; and
- (f) facilitate the imposition and recovery of charges.

## **1.2.h. Water quality and hygiene**

## **BENIN**

<sup>357</sup> Available at: <http://www.wrc-gh.org/wateruseregulations.html>. (Last visited 14 April 2011)

<sup>358</sup> Available at: <http://faolex.fao.org/docs/pdf/ken37553-a.pdf>. (Last visited 14 April 2011)

<sup>359</sup> Available at: [www.polity.org.za/attachment.php?aa\\_id=1385](http://www.polity.org.za/attachment.php?aa_id=1385). (Last visited 14 April 2011)

<sup>360</sup> Available at: <http://www.bloemfontein.co.za/docs/Regulations-Water-Conservation.pdf> (Last visited 14 April 2011)

<sup>361</sup> Available at: <http://www.info.gov.za/gazette/acts/1998/a36-98.pdf>. (Last visited 14 April 2011)



***Water Code, Law No. 87-016 of 21 September 1987 (Unofficial translation)***<sup>362</sup>

**Article 40**

Water supplied for public consumption must be drinkable. It must conform to bacteriological, physiochemical and organic-optical norms. Drinking water must not be harmful to a person's health.

**GUINEA BISSAU**

***Water Code, Law No. 5-A/92 (Unofficial translation)***<sup>363</sup>

**Article 27 (Protection Perimeter)**

Around each hole, well or work used for the supply of potable water of cities or agglomerates, a protection perimeter will be created. Its limits will be set out, in each case, by the Minister responsible for water.

Inside the protection perimeters, it is forbidden, among other things, to:

- a) Build houses or buildings of any kind;
- b) Install industrial or commercial establishments, slaughterhouses or cattle farmyards;
- c) Bring in animals, dispose or bury garbage or disposals of any kind; ...

**CÔTE D'IVOIRE**

***The 1998 Water Code, Law No. 98-755 of 23 December 1998 (Unofficial Translation)***<sup>364</sup>

**Article 48**

Spills, waste dumps of any kind, or of radioactive waste, causing or increasing pollution of water resources is prohibited.

**Article 49**

Any discharge of wastewater into the receiving environment must meet the current standards.

**Article 79**

Whoever provides the public with water for human consumption, for pecuniary interest or free of charge in any form whatsoever including ice cream, is responsible for ensuring that the water is potable and complies with the standards.

**Article 80**

The use of water for the preparation and consumption of any food and goods intended for human or animal consumption must meet the standards of hygiene and public health.

**Article 82**

The use of private wells and springs are allowed for human consumption if the water is safe to drink from, and if all precautions are taken to keep the water free from any contamination, including the proximity of latrines, of animal manures, garbage, filth and cemeteries.

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<sup>362</sup> French original version available at: <http://faolex.fao.org/docs/texts/ben1295.doc>. (Last visited 14 April 2011)

<sup>363</sup> Portuguese original version available at: <http://faolex.fao.org/docs/pdf/gbs39315.pdf>. (Last visited 14 April 2011)

<sup>364</sup> French original version available at: [faolex.fao.org/docs/texts/ivc15630.doc](http://faolex.fao.org/docs/texts/ivc15630.doc) (Last visited 10 October 2011)

The water from these wells should have the qualities of safe drinking continuously required by the regulations and standards.

**Article 78**

Water for human consumption must comply with drinking water standards established by joint order of the Authority for Water and the Minister of Health.

**Article 84**

Any method for the adjustment of water or use of a method of treatment of these waters with chemical additives, must first be authorized under the conditions laid down by regulations. The possible additives should in no way affect the potability of the water and altering the organoleptic properties.

**KENYA**

***The Public Health Act, Chap. 242 of 1972***<sup>365</sup>

**129.** It shall be the duty of every local authority to take all lawful, necessary and reasonably practicable measures -

(a) for preventing any pollution dangerous to health of any supply of water which the public within its district has a right to use and does use for drinking or domestic purposes (whether such supply is derived from sources within or beyond its district); and

(b) for purifying any such supply which has become so polluted; and to take measures (including, if necessary, proceedings at law) against any person so polluting any such supply or polluting any stream so as to be a nuisance or danger to health.

**GHANA**

***National Water Policy, June 2007***<sup>366</sup>

**1.4.2 Focus area 4 – Hygiene education and sanitation (HES)**

**-Challenges**

The key challenges facing the community water and sanitation sub-sector concerning HES include:

(i) Ensuring change in behaviours and attitudes towards fundamental principles of hygiene

(ii) Mainstreaming and highlighting sanitation activities under the NCWSP [National Community Water and Sanitation Program].

**-Policy objective**

The policy objective in taking cognisance of the challenges is;

(i) To maximise health benefits through integration of water, sanitation and hygiene education interventions.

**-Policy measures and/or actions**

In working towards achieving the above objectives, the Government will:

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<sup>365</sup> Original available at: [http://www.kenyalaw.org/kenyalaw/klr\\_app/frames.php](http://www.kenyalaw.org/kenyalaw/klr_app/frames.php) (Last visited 19 October, 2011)

<sup>366</sup> Available at <http://www.water-mwrwh.com/WaterPolicy.pdf>. (Last visited 14 April 2011)

- (i) Support the integration of water, sanitation and hygiene education/promotion (including hand washing) interventions; and
- (ii) Ensure all water supply projects have budgets allocated to sanitation delivery and hygiene education to meet NCWSP requirements.

## **SOUTH AFRICA**

***Regulations relating to compulsory national standards and measures to conserve water, 2001***<sup>367</sup>

### **Section 3**

The minimum standard for basic water supply services is –

- (a) the provision of appropriate education in respect of effective water use; [...]

## **SENEGAL**

***Water Code, Law No. 81-13, 1981 (Unofficial translation)***<sup>368</sup>

### **Article 51**

Drinking water must satisfy the applicable norms for water to be potable, specifically concerning its physical, chemical, biological and bacteriological characteristics.

## **SOUTH AFRICA**

***Water Services Act, Act 108 of 1997***<sup>369</sup>

### **Section 9: Standards**

(1) The Minister may, from time to time, prescribe compulsory national standards relating to–

- (a) the provision of water services;
- (b) the quality of water taken from or discharged into any water services or water resource system;
- (c) the effective and sustainable use of water resources for water services; ...

(2) The standards prescribed under subsection (1) may differentiate between–

- (a) different users of water services–, and
- (b) different geographic areas, taking into account, among other factors, the socioeconomic and physical attributes of each area.

(3) In prescribing standards under subsection (1), the Minister must consider–

- (a) the need for everyone to have a reasonable quality of life;
- (b) the need for equitable access to water services;
- (c) the operational efficiency and economic viability of water services; ...

## **GHANA**

***Public Utilities Regulatory Commission, Social Policy and Strategy for Water Regulation February 2005***<sup>370</sup>

### **3.3.3: Water quality monitoring**

<sup>367</sup> Available at: <http://www.bloemfontein.co.za/docs/Regulations-Water-Conservation.pdf> (Last visited 14 April 2011)

<sup>368</sup> French original version available at: [http://www.gouv.sn/IMG/pdf/code\\_eau.pdf](http://www.gouv.sn/IMG/pdf/code_eau.pdf) (Last visited 14 April 2011).

<sup>369</sup> Available at: <http://www.mangaung.co.za/Legal-Services/Documents/Water-Services-Act.PDF> (Last visited 14 April 2011)

<sup>370</sup> Available at: [http://www.purc.com.gh/social\\_policy\\_21\\_01\\_05.pdf](http://www.purc.com.gh/social_policy_21_01_05.pdf). (Last visited 14 April 2011)

PURC [Public Utilities Regulatory Commission] will continue to use the audit approach in its monitoring of water quality, noting that the ultimate responsibility for ensuring the supply of good quality water and reporting to PURC rests with the utility.

## **SOUTH AFRICA**

***Water Services Act, Act 108 of 1997, amended 2004***<sup>371</sup>

### **Section 62: Monitoring of water services institutions**

(1) The Minister and any relevant Province must monitor the performance of every water services institution in order to ensure—

- (a) compliance with all applicable national standards prescribed under this Act;
- (b) compliance with all norms and standards for tariffs prescribed under this Act; and
- (c) compliance with every applicable development plan, policy statement or business plan adopted in terms of this Act[...]

## **RWANDA**

***Law N°62/2008 of 10/09/2008 putting in place the use, conservation, protection and management of water resources regulations***<sup>372</sup>

### **Article 77: Standards on drinking water**

Any water meant for human use shall conform to drinking standards as defined by the laws and not contrary to standards of the World Health Organization.

## **GHANA**

**Public Utilities Regulatory Commission (PURC), Social Policy and Strategy for Water Regulation February 2005**<sup>373</sup>

### **3.3.4 Secondary suppliers - water quality**

[...]

PURC has developed guidelines (Ref. Water Tanker Service Guidelines) and will monitor their application to safe guard the quality of drinking water supplied by tanker and other secondary and tertiary suppliers.

## **SOUTH AFRICA**

***National Water Act, Act 36 of 1998***<sup>374</sup>

### **Section 26: Regulations on use of water**

(1) Subject to subsection (4), the Minister may make regulations –

[...]

- (h) prescribing waste standards which specify the quantity, quality and temperature of waste which may be discharged or deposited into or allowed to enter a water resource;
- (i) prescribing the outcome or effect which must be achieved through management practices for the treatment of waste, or any class of waste, before it is discharged or deposited into or allowed to enter a water resource;

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<sup>371</sup> Available at: <http://www.mangaung.co.za/Legal-Services/Documents/Water-Services-Act.PDF> (Last visited 14 April 2011)

<sup>372</sup> Kinyarwanda/English/French original available at:

<https://my.workflowmax.com/documents/001275/Job/209635/rwa95444.pdf> (Last visited 13 April, 2011)

<sup>373</sup> Available at: [http://www.purc.com.gh/social\\_policy\\_21\\_01\\_05.pdf](http://www.purc.com.gh/social_policy_21_01_05.pdf). (Last visited 14 April 2011)

<sup>374</sup> Available at: <http://www.info.gov.za/gazette/acts/1998/a36-98.pdf>. (Last visited 14 April 2011)

(j) requiring that waste discharged or deposited into or allowed to enter a water resource be monitored and analysed, and prescribing methods for such monitoring and analysis; [...]

## **2. Americas**

### **2.1. Constitutional standards – Americas**

#### ***2.1.a. Recognition of right to safe drinking water and sanitation***

##### **Explicit recognition**

##### **BOLIVIA**

***New Constitution of Bolivia, 2009 (Unofficial translation)***<sup>375</sup>

##### **Article 16**

I. Everyone has the right to water and food.

II. The State has an obligation to ensure food security, by means of healthy, adequate and sufficient alimentation for the entire population.

##### **Article 20**

I. Everyone has the right to universal and equitable access to the basic services of potable water, sanitation, electricity, gas for household uses, postal services and telecommunication.

II. It is the responsibility of the State, at all its levels of government, to ensure the provision of basic services by means of public, mixed, cooperative or collective bodies. In the cases of electricity, gas for household uses and telecommunications the service can be provided through contracts with private companies. The provision of services must meet the criteria of universality, responsibility, accessibility, continuity, quality, efficiency, equitable tariffs and necessary coverage; with participation and social control.

III. Access to water and sanitation are human rights; they cannot be the object to concessions or privatisation and are subject to a regime of licenses and registers, in accordance with the law.

##### **BOLIVIA**

***New Constitution of Bolivia, 2009 (Unofficial translation)***<sup>376</sup>

##### **Article 373**

I. Water constitutes a fundamental right for life, within the framework of the sovereignty of the people. The State shall promote the use and access to water on the basis of principles of solidarity, complementariness, reciprocity, equity, diversity and sustainability.

##### **ECUADOR**

***Constitution of the Republic of Ecuador, 2008***<sup>377</sup>

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<sup>375</sup> Spanish original version available at: <http://eju.tv/2008/10/nueva-constitucion-politica-del-estado-de-bolivia/> (Last visited 23 September, 2011).

<sup>376</sup> Spanish original version available at: <http://eju.tv/2008/10/nueva-constitucion-politica-del-estado-de-bolivia/> (Last visited 23 September, 2011).

<sup>377</sup> Available at: [http://www.mmrree.gob.ec/pol\\_exterior/constit\\_eng.pdf](http://www.mmrree.gob.ec/pol_exterior/constit_eng.pdf) (Last visited 20 December, 2010).

## **Article 12**

The human right to water is essential and cannot be waived. Water constitutes a national strategic asset for the use by the public and it is inalienable, not subject to a statute of limitations, immune from seizure and essential for life.

## **NICARAGUA**

**Constitution of the Republic of Nicaragua, 1987, as of September 2010 (Unofficial translation)**<sup>378</sup>

### **Article 105**

It is the obligation of the State to promote, facilitate and regulate the provision of basic public services of energy, communications, water, (...) and the population has an inalienable right to have access to these services. [...]

## **URUGUAY**

**Constitution of the Republic of Uruguay, 1967, as last amended 31 October 2004 (Unofficial translation)**<sup>379</sup>

### **Article 47**

The protection of the environment is of general interest. [...]

Water is a natural resource essential for life.

Access to drinking water and access to sanitation constitute basic human rights.

1) National Water and Sanitation policies will be based on:

[...]

b) the sustainable management, in solidarity with future generations, of the water resources and the preservation of the hydrological cycle, which constitute matters of public interest. Users and civil society shall participate at all levels of planning, management and control of water resources; [...]

c) the establishment of priorities for water usage by regions, basins or parts thereof, of which the first priority will be the provision of drinking water to the population.

d) the principle that social grounds must prevail over economic grounds in the provision of potable water and sanitation services.

Any authorisation, concession or permission that in any way violates the above provision shall be rescinded.

2) Surface waters as well as subterranean waters, excepting rainwater, integrated into the hydrological cycle constitute a unitary resource of public interest, which, as the public hydraulic domain, constitutes part of the public domain of the State.

3) The public service of sanitation and the water supply for human consumption shall exclusively and directly be provided by legal persons of the State.

4) If adopted with a three-fifths majority of all members of each House, the provision of water to another country can be authorised by law, if [this country] is without sufficient supplies or for reasons of solidarity.

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<sup>378</sup> Spanish original available at:

[http://legislacion.asamblea.gob.ni/Normaweb.nsf/%28\\$All%29/750E20D0698FEB21062577C2006A3D0A?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/%28$All%29/750E20D0698FEB21062577C2006A3D0A?OpenDocument) (Last visited 15 April 2011)

<sup>379</sup> Spanish original available at: <http://www.parlamento.gub.uy/constituciones/const004.htm> (Last visited 21 December, 2010).

## **Implicit recognition**

### **COLOMBIA**

***Constitution of Colombia, 1991, as last amended April 1, 2005 (Unofficial translation)***<sup>380</sup>

#### **Article 49**

Public health and environmental sanitation are public services conducted by the State. All individuals are guaranteed access to services that promote, protect, and rehabilitate public health.

The State shall organise, direct, and regulate the provision of health services to inhabitants as well as environmental sanitation in accordance with the principles of efficiency, universality, and solidarity [...]

#### **Article 334**

[...]

The State shall especially intervene to reach full employment and to ensure that all individuals, and especially those with low income, have effective access to basic goods and services. [...]

#### **Article 366**

General welfare and the improvement of the quality of life of the population are social purposes of the State. It will be a fundamental objective of State activity to address the unmet needs regarding health, education, environmental sanitation and drinking water. [...]

### **VENEZUELA**

***Constitution of the Bolivarian Republic of Venezuela, 1999 (Unofficial translation)***<sup>381</sup>

#### **Article 82**

Everyone has the right to adequate housing that is secure, comfortable and hygienic, with essential basic services that include a living space that humanises family, neighbourly and community relations. The progressive realisation of this right in all of its aspects is shared between both the citizens and the State.

#### **Article 83**

Health is a fundamental social right and obligation of the State who shall guarantee it as part of the right to life. The State shall promote and develop policies focusing on improving the quality of life, general well-being and access to services. All people have a right to the protection of health as well as a duty to participate actively in its promotion and defense and to comply with the sanitary and sanitation measures established by law, in accordance with the treaties and international covenants signed and ratified by the Republic.

### **BOLIVIA**

***New Constitution of Bolivia, 2009 (Unofficial translation)***<sup>382</sup>

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<sup>380</sup> Spanish original available at: <http://pdba.georgetown.edu/constitutions/colombia/col91.html> (Last visited 21 December, 2010).

<sup>381</sup> Spanish original available at: <http://www.tsj.gov.ve/legislacion/constitucion1999.htm> (Last visited 21 December, 2010).

#### Article 374

I. The State shall protect and guarantee the priority use of water for life. The State has the duty of managing, protecting, controlling and planning the appropriate use and sustainable management of water resources, of social participation, and ensuring access to water for all its inhabitants. This law establishes the conditions and limitations for all uses.

#### COLOMBIA

***Constitution of Colombia, 1991, as last amended 1 April 2005 (Unofficial translation)***<sup>383</sup>

##### Article 365

Public services are inherent to the social purpose of the State. It is the duty of the State to ensure their effective delivery to all inhabitants of the national territory.

Public services shall be subject to the legal regime established by law. They may be directly or indirectly provided by the State, by organised communities or by individuals. In any case, the State shall regulate, control and apply such services [...]

#### DOMINICAN REPUBLIC

***Constitution of the Dominican Republic, 2002 (Unofficial translation)***<sup>384</sup>

##### Article 8

[...]

17. The State shall also provide social assistance to the poor. Such assistance shall consist of food, clothing and, as far as this is possible, adequate housing.

The State shall ensure the improvement of nutrition, sanitation services and hygienic conditions, [...]

#### ECUADOR

***Constitution of the Republic of Ecuador, 2008***<sup>385</sup>

##### Article 314

The State shall be responsible for the provision of the public services of drinking and irrigation water, sanitation, [...].

The State shall ensure that public services and the provision thereof observe the principles of obligation, generality, uniformity, efficiency, responsibility, universality, accessibility, regularity, continuity and quality. The State shall take steps to ensure that the prices and fees of public services are equitable, and shall establish the monitoring and regulation thereof.

#### ECUADOR

***Constitution of the Republic of Ecuador, 2008***<sup>386</sup>

##### Article 375

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<sup>382</sup> Spanish original version available at: <http://eju.tv/2008/10/nueva-constitucion-politica-del-estado-de-bolivia/> (Last visited 23 September, 2011).

<sup>383</sup> Spanish original available at: <http://pdba.georgetown.edu/constitutions/colombia/col91.html> (Last visited 21 December, 2010).

<sup>384</sup> Spanish original available at: <http://www.eurosur.org/constituciones/co16-2.htm> (Last visited 19 April, 2011).

<sup>385</sup> Available at: [http://www.mmree.gob.ec/pol\\_exterior/constit\\_eng.pdf](http://www.mmree.gob.ec/pol_exterior/constit_eng.pdf) (Last visited 20 December, 2010).

<sup>386</sup> Available at: [http://www.mmree.gob.ec/pol\\_exterior/constit\\_eng.pdf](http://www.mmree.gob.ec/pol_exterior/constit_eng.pdf) (Last visited 21 December, 2010).



The State, at all levels of government, shall guarantee the right to habitat and decent housing, for which purpose it shall:

[...]

6. Guarantee the uninterrupted provision of public clean water services and electricity to schools and public hospitals.

[...]

### ***2.1.b. Non-discrimination and attention to vulnerable and marginalized groups***

#### **BOLIVIA**

***New Constitution of Bolivia, 2009 (Unofficial translation)***<sup>387</sup>

Article 374

II. The State shall recognize, respect and protect the customs of communities, local authorities and peasant indigenous organizations on their rights, on the management and sustainable water management.

#### **NICARAGUA**

***Constitution of the Republic of Nicaragua, 1987, as of September 2010 (Unofficial translation)***<sup>388</sup>

**Article 89**

[...]

The communities of the Atlantic Coast have the right to preserve and develop their cultural identity within national unity; establish their own forms of social organization and manage their local affairs according to their traditions. [...]

(3) The State recognises the communal forms of property over land of the Communities of the Atlantic Coast. It also recognises the enjoyment, use, and possession of the waters and forests of their communal land.

### ***2.1.c. Participation and access to information***

#### **ARGENTINA**

***Constitution of the Argentine Nation, 1994***<sup>389</sup>

**Section 42**

As regards consumption, consumers and users of goods and services have the right to the protection of their health, safety, and economic interests; to adequate and truthful information; to freedom of choice and equitable and reliable treatment. The authorities shall provide for the protection of said rights, the education for consumption, the defense of competition against any kind of market distortions, the control of natural and legal monopolies, the control of quality and efficiency of public utilities, and the creation of consumer and user associations. Efficient procedures for conflict prevention and settlement, as well as regulations for national public utilities

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<sup>387</sup> Spanish original version available at: <http://eju.tv/2008/10/nueva-constitucion-politica-del-estado-de-bolivia/> (Last visited 23 September, 2011).

<sup>388</sup> Spanish original available at: [http://legislacion.asamblea.gob.ni/Normaweb.nsf/%28\\$All%29/750E20D0698FEB21062577C2006A3D0A?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/%28$All%29/750E20D0698FEB21062577C2006A3D0A?OpenDocument) (Last visited 15 April 2011)

shall be established by legislation. Such legislation shall take into account the necessary participation of consumer and user associations and of the interested provinces in the control entities.

## **ECUADOR**

***Constitution of the Republic of Ecuador, 2008***<sup>390</sup>

### **Article 57**

Indigenous communes, communities, peoples and nations are recognised and guaranteed, in conformity with the Constitution and human rights agreements, conventions, declarations and other international instruments, the following collective rights:

[...]

6. To participate in the use, usufruct, administration and conservation of natural renewable resources located on their lands. [...]

## **PANAMA**

***Constitution of the Republic of Panamá, 1972, as last amended on 15 November 2004 (Unofficial translation)***<sup>391</sup>

### **Article 43**

All persons have the right to request information that is publicly accessible or of collective interest and stored in databases or registers of public service providers or private persons that provide public services [...]

## **VENEZUELA**

***Constitution of the Bolivarian Republic of Venezuela, 1999 (Unofficial Translation)***<sup>392</sup>

### **Article 184**

The law shall create open and flexible mechanisms for States and Municipalities to decentralise and transfer to communities and organised society groups, after they have demonstrated the capacity to provide them, the services managed by them, promoting:

1. The transfer of services in the area of health, education, housing[...] construction work and public services. [...]

2. The involvement of community and citizens, through civil society associations and non-governmental organisations, in the formulation of investment proposals before the governmental bodies in charge of the elaboration of the respective investment plans, as well as in the implementation, evaluation and control of works, social programs and public services within their jurisdiction.

## **2.1.d. Accountability**

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<sup>390</sup> Spanish original available at:

[http://legislacion.asamblea.gob.ni/Normaweb.nsf/%28\\$All%29/750E20D0698FEB21062577C2006A3D0A?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/%28$All%29/750E20D0698FEB21062577C2006A3D0A?OpenDocument) (Last visited 15 April 2011)

<sup>390</sup> Available at: [http://www.mmrree.gob.ec/pol\\_exterior/constit\\_eng.pdf](http://www.mmrree.gob.ec/pol_exterior/constit_eng.pdf) (Last visited 21 December, 2010).

<sup>391</sup> Spanish original available at: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=189351](http://www.wipo.int/wipolex/en/text.jsp?file_id=189351) (Last visited 21 December, 2010). (Last visited 19 April 2011)

<sup>392</sup> Spanish original available at: <http://www.tsj.gov.ve/legislacion/constitucion1999.htm> (Last visited 21 December, 2010).

## **BOLIVIA**

***Constitution of the Republic of Bolivia, 1967, as last amended 6 July 2005 (Unofficial translation)***<sup>393</sup>

### **Article 107**

The State shall regulate, control and supervise the exploitation of national assets and the provision of public services, through public entities or private persons and the protection of users through the Superintendents created by law.

## **ECUADOR**

***Constitution of the Republic of Ecuador, 2008***<sup>394</sup>

### **Transitory provision number twenty-six:**

Within three hundred sixty (360) days as of the entry into force of the present Constitution, the concessions for the public services of water and sanitation shall be audited financially, legally, environmentally and socially.

The States shall decide the term of validity, the renegotiation and, if appropriate, the termination of these concession contracts, in accordance with the provisions of the present Constitution and on the basis of the results of the audits.

### ***2.1.e. Accessibility of water and sanitation***

## **ECUADOR**

***Constitution of the Republic of Ecuador, 2008***<sup>395</sup>

### **Article 318**

Water is part of the country's strategic heritage for public use; it is the unalienable property of the State and is not subject to a statute of limitations. It is a vital element for nature and human existence. Any form of water privatization is forbidden.

The management of water shall be exclusively public or community-based. The public service of sanitation and the supply of drinking and irrigation water shall be provided only by legal entities of the State or communities.

The State shall bolster the management and operating of community initiatives with regard to the management of water and provision of public services, by encouraging alliances between public and community bodies for the provision of services.

The State, through the sole authority for water, shall be directly responsible for planning and managing water resources for human consumption, irrigation to guarantee food sovereignty, ecological wealth and productive activities, in this order of priority. [...]

### ***2.1.f. Affordability of water and sanitation***

## **COLOMBIA**

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<sup>393</sup> Spanish original available at: <http://pdpa.georgetown.edu/constitutions/bolivia/consboliv2005.html> (Last Visited 15 April, 2011). Note that there is a new constitution of 2009 which includes an explicit right to water, Spanish original available at:

[http://www.vicepresidencia.gob.bo/Portals/0/documentos/NUEVA\\_CONSTITUCION\\_POLITICA\\_DEL\\_ESTADO.pdf](http://www.vicepresidencia.gob.bo/Portals/0/documentos/NUEVA_CONSTITUCION_POLITICA_DEL_ESTADO.pdf) (Last visited 15 April 2011)

<sup>394</sup> Available at: <http://pdpa.georgetown.edu/Constitutions/Ecuador/english08.html> (Last visited 19 April, 2011).

***Constitution of Colombia, 1991, as last amended 1 April 2005 (Unofficial translation)***<sup>396</sup>

**Article 367**

The law shall specify the competencies and responsibilities relating to the provision of public household services, their coverage, quality and financing, and the tariff system, that shall take into account, in addition to cost criteria, those of solidarity and redistribution of revenues.

Public services shall be provided directly by each municipality when the technical and economic characteristics of the service and the general benefits of the services suggest that this is possible and advisable, and the departments shall provide support and coordination.

The law shall determine the entities competent to define rates.

**COLOMBIA**

***Constitution of Colombia, 1991, as last amended 1 April 2005 (Unofficial translation)***<sup>397</sup>

**Article 368**

The Nation, the departments, the districts, the municipalities and the decentralised entities shall grant subsidies in their respective budgets, so that persons with low income may afford to pay the tariffs for the public household services covering their basic needs.

**ECUADOR**

***Constitution of the Republic of Ecuador, 2008***<sup>398</sup>

**Transitory provision number twenty-six:**

Users living in extreme poverty shall be forgiven any water use debts they might have incurred up until the entry into force of the present Constitution.

***2.1.g. Water availability and allocation***

**ECUADOR**

***Constitution of the Republic of Ecuador, 2008***<sup>399</sup>

**Article 276**

The development structure shall have the following objectives:

[...]

4. To restore and conserve nature and maintain a healthy and sustainable environment ensuring for persons and communities equitable, permanent and quality access to water, air and land, and to the benefits of ground resources and natural assets.

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<sup>397</sup> Spanish original available at: <http://pdba.georgetown.edu/constitutions/colombia/col91.html> (Last visited 19 April, 2011).

<sup>398</sup> Available at: [http://www.mmree.gob.ec/pol\\_exterior/constit\\_eng.pdf](http://www.mmree.gob.ec/pol_exterior/constit_eng.pdf) (Last visited 22 December, 2010).

<sup>399</sup> Available at: [http://www.mmree.gob.ec/pol\\_exterior/constit\\_eng.pdf](http://www.mmree.gob.ec/pol_exterior/constit_eng.pdf) (Last visited 19 April, 2011).

## **UNITED STATES OF AMERICA**

***The Constitution of the State of Hawaii, 1950***<sup>400</sup>

### **Article XI**

#### **Section 7 - Water Resources**

The State has an obligation to protect, control and regulate the use of Hawaii's water resources for the benefit of its people. [...]

### ***2.1.h. Water quality and hygiene***

## **GUATEMALA**

***Constitution of the Republic of Guatemala, 1985, as amended 17 November 1993***<sup>401</sup>

### **Article 96: Quality control of products**

The State will control the quality of food products, pharmaceuticals, chemicals, and of everything that can affect the health and well-being of its inhabitants. It will see to the establishment and programming of priorities to health and the improvement of the conditions of the basic environmental guarantee of the communities that are least protected.

## **PANAMA**

***Constitution of the Republic of Panamá, 1972, as last amended on 15 November 2004 (Unofficial translation)***<sup>402</sup>

### **Article 110**

Regarding health, the State is primarily responsible for developing the following activities, integrating the functions of prevention, cure and rehabilitation:  
[...]

4. Combating transmittable diseases through improved environmental sanitation, and by developing the availability of drinking water [...]

### **Article 118**

It is a fundamental duty of the State to ensure that the population lives in a healthy environment free of pollution, in which air, water and foodstuffs meet the requirements for an adequate development of human life.

## **2.2. National laws and policies – Americas**

### ***2.2.a. Recognition of right to safe drinking water and sanitation***

#### **Explicit recognition**

## **ARGENTINA**

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<sup>400</sup> Available at: <http://hawaii.gov/lrb/con/constitution/CONST%200011-0007.html> (Last visited 19 April, 2011).

<sup>401</sup> Available at: <http://www.constitutionnet.org/files/Guatemala%20Constitution.pdf> (Last visited 10 April, 2011).

<sup>402</sup> Spanish original available at: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=189351](http://www.wipo.int/wipolex/en/text.jsp?file_id=189351) (Last visited 19 April, 2011).

***Law on Environmental Water Management, City of Buenos Aires, Law no. 3295 of 9 February 2010 (Unofficial Translation)***<sup>403</sup>

**Art. 3**

The City guarantees for all its inhabitants access to potable water in a quantity and quality sufficient for personal and domestic uses as a fundamental human right.

**BRAZIL**

***Law n. 10.257 of 10 July 2001 (“Statute of the City”)***<sup>404</sup>

**Article 2**

The purpose of urban policy is to give order to the full development of the social functions of the city and of urban property, through the following general guidelines:

I - guarantee the right to sustainable cities, understood as the right to urban land, housing, environmental sanitation, urban infrastructure, transportation and public services, to work and leisure for current and future generations; [...]

**CANADA**

***Québec Water Policy, 2002***<sup>405</sup>

The Québec government first wishes to reaffirm, through this Policy, its determination to recognize this resource as a valuable asset of Québec society and an integral part of its collective heritage. Water, both surface and groundwater, is recognized in the Civil Code of Québec as something whose use is common to all, subject to rights of use or limited appropriation rights, that may be recognized. This “common to all” status implies that all members of society have the right to access water and use it in a manner consistent with its nature, and that the government has a responsibility to regulate water use, establish priority uses and preserve its quality and quantity, while taking the public interest into account. Therefore, the government intends to create the necessary instruments so that they may give precedence, in the event of conflict, to the fundamental right of individuals to access this resource for their basic needs.

**CANADA**

***Bill 27: An Act to Affirm the Collective Nature of Water Resources and Provide for Increased Water Resource Protection, 2009***<sup>406</sup>

Preface:

(..)

(..)

AS water is for everyone’s use and must be accessible in the quantity and quality required to meet every individual’s essential needs;

**Division I**

Water, a Collective Resource

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<sup>403</sup> Spanish original available at:

<http://boletinoficial.buenosaires.gov.ar/apps/BO/front/documentos/boletines/2010/02/20100209.pdf> (Last visited 19 April 2011)

<sup>404</sup> Portuguese original and official English version available at: <http://www.cidades.gov.br/secretarias-nacionais/saneamento-ambiental/legislacao/leis/lei-do-saneamento-1/LeisSaneamentoIngles.pdf>. (Last visited 19 April 2011)

<sup>405</sup> Available at: <http://www.mddep.gouv.qc.ca/eau/politique/index-en.htm>. (Last visited 19 April 2011)

<sup>406</sup> Original available at:

<http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=5&file=2009C21A.PDF> (Last visited 19 April 2011)

2. Under the conditions and within the limits defined by the law, it is the right of every natural person to have access to water that is safe for drinking, cooking and personal hygiene.

## **COLOMBIA**

***Draft Water Law (Unconfirmed), draft of 17 January 2005, (Unofficial translation)***<sup>407</sup>

### **Article 3.5: Equity**

All persons have the right to access to the use of water, without discrimination of any kind.

## **COSTA RICA**

***Principles governing the national policy in the field of water resources management, Executive Decree No. 30480-MINAE of 5 June 2002 (Unofficial translation)***<sup>408</sup>

### **Article 1.1**

Access to drinking water is an inalienable human right and must be guaranteed constitutionally.

### **Article 1.2**

The management of water and above all the rules governing access to this resource must be governed by the principle of social and intergenerational equity and solidarity.

## **COSTA RICA**

***Draft Law on Water Resources (Unconfirmed), proposal No. 14585, 2005 (Unofficial translation)***<sup>409</sup>

### **Article 2: General Principles**

a) Access to water is a human right: Access to water in adequate quantity and quality is a human right, indispensable for the satisfaction of basic needs of the human being.

## **GUATEMALA**

***General Water Law, Law No. 3702 of 26 September 2007 (Unofficial translation)***<sup>410</sup>

### **Article 2: Principles**

[...]

a) Principle of Equality: Access to water for satisfaction of the vital and essential needs of the population and the improvement of these is a fundamental biological and social right of every human being.

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<sup>407</sup> Spanish original available at: [http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Colombia-Proyecto\\_de\\_Ley\\_del\\_Agua\\_\(2005\).pdf](http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Colombia-Proyecto_de_Ley_del_Agua_(2005).pdf). (Last visited 15 April 2011)

<sup>408</sup> Spanish original version available at: <http://www.docstoc.com/docs/37794995/LEGISLACION-SOBRE-AGUAS> (Last visited 19 April 2011)

<sup>409</sup> Spanish original available at: <http://www.conare.ac.cr/proyectos/14585%20dic.htm>. (Last visited 19 April 2011)  
The draft was approved by the Comisión Permanente Especial de Ambiente on 14/4/2005 and is currently under debate in Parliament.

<sup>410</sup> Original Spanish version at: [www.gwpcentroamerica.org/.../1299919858.doc](http://www.gwpcentroamerica.org/.../1299919858.doc) (Last visited 23 February 2012)

## **MEXICO**

### ***Water Law of the Distrito Federal, 2003 (Unofficial translation)***<sup>411</sup>

#### **Article 5**

Everyone in the Distrito Federal has the right to have access to sufficient, safe and hygienic water for personal and domestic uses, as well as to provision without interference. The authorities shall guarantee this right, granted that individuals present their allegations when the exercise of this right is limited by the acts, facts, or omissions of any authority or person, taking into account the limitations and restrictions established by the present law.

## **NICARAGUA**

### ***General Law on National Water Resources, 15 May 2007 (Unofficial translation)***<sup>412</sup>

#### **Article 13**

[...] the present law is based on the following values and principles [...]

**Preservation and protection.** Water is a vital, limited, vulnerable and finite resource whose preservation and sustainability is an essential and unavoidable task of the State and society combined. Having access to it is an inalienable right of every human being.

## **NICARAGUA**

### ***Law governing the suspension of concessions for the use of water, Law 440 of 11 August 2003 (Unofficial translation)***<sup>413</sup>

#### **Article 1**

This Act aims to preserve and to rationalise the development and the ongoing sustainability of the country's water resources -- which, due to their nature and vital importance, are a fundamental and strategic part of the exclusive property of the State. Access to water constitutes a citizen's right and a human right, inviolable and inalienable. [...]

## **NICARAGUA**

### ***General law on the environment and natural resources, Law No. 217 of 6 June 1996 (Unofficial translation)***<sup>414</sup>

#### **Article 76**

Everyone has the right to utilise water for the satisfaction of their basic needs, always in a way that does not cause damage for third parties[...]

## **NICARAGUA**

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<sup>411</sup> Spanish original at:

[http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes\\_equidad/local/03\\_ley\\_aguas.pdf](http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes_equidad/local/03_ley_aguas.pdf) (Last visited 20 April 2011)

<sup>412</sup> Spanish original available at:

[http://legislacion.asamblea.gob.ni/Normaweb.nsf/\(\\$All\)/C0C1931F74480A55062573760075BD4B?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/($All)/C0C1931F74480A55062573760075BD4B?OpenDocument) (Last visited 15 April 2011)

<sup>413</sup> Spanish original available at:

[http://legislacion.asamblea.gob.ni/Normaweb.nsf/\(\\$All\)/4D92EC09C7838B2B0625722C005CEB50?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/($All)/4D92EC09C7838B2B0625722C005CEB50?OpenDocument) (Last visited 21 April 2011)

<sup>414</sup> Spanish original at:

[http://legislacion.asamblea.gob.ni/Normaweb.nsf/\(\\$All\)/1B5EFB1E58D7618A0625711600561572?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/($All)/1B5EFB1E58D7618A0625711600561572?OpenDocument) (Last visited 21 April 2011)



***General law on drinking water and sanitation services, Law No. 297 of 2 Juli 1998 (Unofficial translation)***<sup>415</sup>

**Article 69**

Every natural or legal person situated within the license area of the licensee has a right to be provided with the services by the licensee[...]

**PANAMA**

***Draft General Water Law, (Unconfirmed) 2006 (Unofficial translation)***<sup>416</sup>

**Article 53. Priority for human consumption**

Every citizen shall have the right to use and utilise water resources, as a matter of priority, for human consumption. Human consumption is understood to cover the use of water for the satisfaction of vital physiological needs of the human being, for personal hygiene and for domestic needs.

**PARAGUAY**

***General law governing the regulatory and tariff framework for the public drinking water and sanitation services for the Republic of Paraguay, Law 1614 of 2000 (Unofficial translation)***<sup>417</sup>

**Article 34: Generic right**

All users have the right to the provision of service in accordance with the norms established in the present law and the Regulatory Framework.

**Article 35: Rights of the users**

Users have the following rights, without this list being exhaustive:

a) to demand from the provider the provision and quality of the service in accordance with the provisions of the present law, [...]

**Article 45: Complementarity**

The services of provision of drinking water and sanitation constitute complementary services that shall be developed harmoniously to avoid the installation of systems for the provision of drinking water without the installation of systems for sanitation, and vice versa, except when ERSSAN authorises it and when such an exception is considered in the concession contract or in the license. Moreover, the different stages of service should be conceived and developed with the harmonious and efficient development of service as an integrated whole.

**PARAGUAY**

***Law on Water Resources, Law 3239 of 10 July 2007 (Unofficial translation)***<sup>418</sup>

**Article 3**

The integral and sustainable management of the water resources of Paraguay shall be governed by the following principles:

b) Access to water for the satisfaction of basic needs is a human right and shall be guaranteed by the State in adequate quantity and quality.

**Article 4**

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<sup>415</sup> Spanish original at: <http://www.ccad.ws/documentos/legislacion/NC/L-297.pdf> (Last visited 21 April 2011)

<sup>416</sup> Spanish original at: <http://burica.wordpress.com/2007/09/12/proyecto-de-ley-de-aguas-gestion-integrada-de-los-recursos-hidricos-en-panama/>. (Last visited 19 April 2011)

<sup>417</sup> Spanish original available at: <http://www.erssan.gov.py/Ley%201614-2000/Ley%20Nro.%201614.pdf>. (Last visited 20 April 2011)

<sup>418</sup> Spanish original available at: [http://issuu.com/sectorproductivo/docs/ley\\_de\\_recursos\\_hidricos](http://issuu.com/sectorproductivo/docs/ley_de_recursos_hidricos) (Last visited 21 April 2011)

The National Water Resource Policy shall be guided by the following fundamental objectives:

[...]

b) To guarantee that all inhabitants have access to drinking water, given that this is a human right.

#### **Article 16**

Every natural person has a right to access to a minimum quantity of drinking water per day that is sufficient for the satisfaction of their basic needs.

The minimum quantity of water per person per day shall be established by regulation by the Ministry of Public Health and Social Welfare.

#### **PERU**

***Water Resources Act, June 2009 (Unofficial translation)***<sup>419</sup>

Article III: Principles

The principles governing the use and integrated management of water resources are:

**2. Principle of priority regarding access to water**

Access to water for the satisfaction of the primary needs of the human person has priority, even in times of scarcity, because it is a fundamental human right.

#### **PERU**

***General Law on the Environment, Law No. 28611 of 15 October 2005 (Unofficial translation)***<sup>420</sup>

**Article 114: Water for human uses**

Access to water for human uses is a right of the population. [...]

#### **PERU**

***Water Resources Act, June 2009 (Unofficial translation)***<sup>421</sup>

**Article 40 Access of the Population to safe drinking water**

The State guarantees all persons the right to access drinking water in sufficient quantity, safety and quality to satisfy their personal and domestic needs.

#### **UNITED STATES OF AMERICA**

***Constitution of the Commonwealth of Pennsylvania, 1776, as last amended 16 May 1978***<sup>422</sup>

**Section 27**

The people have a right to clean air, pure water, [...]

#### **UNITED STATES OF AMERICA**

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<sup>419</sup> Spanish original available at:

[http://gestion sostenible del agua.files.wordpress.com/2010/06/leyderecursohidricos\\_29338.pdf](http://gestion sostenible del agua.files.wordpress.com/2010/06/leyderecursohidricos_29338.pdf) (Last visited 20 April 2011)

<sup>420</sup> Spanish original available at: <http://www.fonamperu.org/general/documentos/leyambiente.pdf> (Last visited 21 April 2011)

<sup>421</sup> Spanish original available at:

[http://gestion sostenible del agua.files.wordpress.com/2010/06/leyderecursohidricos\\_29338.pdf](http://gestion sostenible del agua.files.wordpress.com/2010/06/leyderecursohidricos_29338.pdf) (Last visited 20 April 2011)

<sup>422</sup> Original available at: [http://sites.state.pa.us/PA\\_Constitution.html](http://sites.state.pa.us/PA_Constitution.html). (Last visited 19 April 2011) Provision entered into effect 18 May 1971.

***Constitution of the Commonwealth of Massachusetts, 1780, as last amended 6 November 1990***<sup>423</sup>

**Article XCVII**

The people shall have the right to clean air and water, freedom from excessive and unnecessary noise, and the natural, scenic, historic, and esthetic qualities of their environment; and the protection of the people in their right to the conservation, development and utilization of the agricultural, mineral, forest, water, air and other natural resources is hereby declared to be a public purpose.

**VENEZUELA**

***Water Law, 2 January 2007 (Unofficial translation)***<sup>424</sup>

**Article 5**

The principles governing the integrated management of water resources, based on the recognition of the full sovereignty the Republic exercises over water, are the following:

Access to water is a fundamental human right. [...]

**Implicit recognition**

**HONDURAS**

***General Water Law, 2009 (Unofficial translation)***<sup>425</sup>

**Principles:**

The management of water resources shall meet the following principles:

[...]

Water is a resource of critical importance and essential for life and social and economic development. Its protection and conservation is a priority of the state.

b) The use for human consumption is preferential and privileged over other uses.

**HONDURAS**

***Decree No. 118-2003, Framework Law for the Drinking Water and Sanitation Sector (Unofficial translation)***<sup>426</sup>

**Preamble**

Considering that, according to the principle of solidarity, the State must guarantee access to potable water to sections of the population excluded from the service because of socio-economic reasons.

**Article 1**

The present law establishes the norms applicable to potable water and sanitation services in the national territory as a basic instrument for the promotion of the quality of life of the population and for securing of sustainable development as an intergenerational legacy.

The provision of these services is governed by the principles of quality, equity, solidarity, continuity, generality, respect for the environment and citizen participation.

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<sup>423</sup> Available at: <http://www.mass.gov/legis/const.htm#cart097.htm>. Provision entered into force 7 November 1972. (Last visited 21 April 2011)

<sup>424</sup> Spanish original available at: <http://faolex.fao.org/docs/texts/ven69647.doc>. (Last visited 18 April 2011)

<sup>425</sup> Spanish original available at: <http://faolex.fao.org/docs/pdf/hon92441.pdf> (Last visited 20 April 2011)

<sup>426</sup> Spanish original available at: <http://faolex.fao.org/docs/pdf/hon41347.pdf>. (Last visited 20 April 2011)

## **NICARAGUA**

**General Health Law, Law No. 423 of 14 March 2002 (Unofficial translation)<sup>427</sup>**

### **Article 1: Purpose of the law**

The purpose of the present law is to protect the right of everyone to the enjoyment, conservation and restoration of their health [...] For this purpose the law shall regulate:

[...]

c. Environmental sanitation.

### **Article 69**

Environmental sanitation comprises the promotion, education, improvement, control and management of [...] the quality of water, elimination and treatment of liquid and solid materials, [...]

## **BRAZIL**

**Law on Basic Sanitation, 2007<sup>428</sup>**

### **Article 2**

[basic] public sanitation services shall be delivered in accordance with the following fundamental principles:

I - universal access; [...]

## **UNITED STATES OF AMERICA**

**California Public Utilities Code, 1993<sup>429</sup>**

### **Section 739.8**

(a) Access to an adequate supply of healthful water is a basic necessity of human life, and shall be made available to all residents of California at an affordable cost.

## **VENEZUELA**

**Organic Law on the Provision of Potable Water and Sanitation Services, 31 December 2001 (Unofficial translation)<sup>430</sup>**

### **Article 3**

The principles governing the provision of the public services regulated by this law are the following:

[...]

b. access of all citizens to drinking water and sanitation services; [...]

## **CANADA**

**Montréal Charter of Rights and Responsibilities, 2006<sup>431</sup>**

### **Article 18: Commitments**

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<sup>427</sup> Spanish original at:

[http://legislacion.asamblea.gob.ni/Normaweb.nsf/\(\\$All\)/FF82EA58EC7C712E062570A1005810E1?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/($All)/FF82EA58EC7C712E062570A1005810E1?OpenDocument). (Last visited 15 April, 2011)

<sup>428</sup> Portuguese original and official English version available at: <http://www.cidades.gov.br/secretarias-nacionais/saneamento-ambiental/legislacao/leis/lei-do-saneamento-1/LeisSaneamentoIngles.pdf>. (Last visited 21 April 2011) Note that the Law on Basic Sanitation also covers drinking water supply.

<sup>429</sup> Available at: [http://www.legaltips.org/california/california\\_public\\_utilities\\_code/](http://www.legaltips.org/california/california_public_utilities_code/). (Last visited 19 April 2011)

<sup>430</sup> Spanish original available at: <http://www.hidroven.gov.ve/publicaciones/LOPSAPS.pdf> (Last visited 18 April 2011)

<sup>431</sup> Available at:

[http://ville.montreal.qc.ca/pls/portal/docs/page/charte\\_mtl\\_en/media/documents/charte\\_droits\\_en.pdf](http://ville.montreal.qc.ca/pls/portal/docs/page/charte_mtl_en/media/documents/charte_droits_en.pdf). (Last visited 19 April 2011)

To foster the economic and social rights of citizens, Montréal is committed to:  
[...]

f) Providing citizens with access to sufficient quantities of quality drinking water; [...]

## **EL SALVADOR**

***Health Code, Decree No. 955 of 1988, as last amended 2008 (Unofficial translation)***<sup>432</sup>

### **Article 61**

The cities and urban populations shall be provided with services for the supply of potable water, and in case they are not, the State, subject to its resources and according to respective plans, shall provide the population by means of relevant specialized bodies.

## **MEXICO**

***Water Law of the Distrito Federal, 2003 (Unofficial translation)***<sup>433</sup>

### **Article 54**

The supply and distribution of the public service of water for human consumption of sufficient quantity and quality for the population of the Federal District is an obligation of the Government of the Federal District, and as such cannot be interrupted in its realisation. The provision can only be restricted when such restriction is consistent with the orders contained in the present law and the Financial Code of the Federal District.

## **NICARAGUA**

***General Law on National Water Resources, Law No. 620 of 15 May 2007 (Unofficial translation)***<sup>434</sup>

### **Article 5**

It is the obligation and undeniable priority of the State to promote, facilitate, and adequately regulate the supply of potable water to the Nicaraguan people in sufficient quantity and quality and at differentiated costs, while also supporting the sectors with fewer economic resources.

## **PERU**

***General Law on the Environment, Law No. 28611 of 15 October 2005 (Unofficial translation)***<sup>435</sup>

### **Article 67: Basic sanitation**

The public authorities at national, sectoral, regional and local levels shall prioritise measures for basic sanitation that include the construction and administration of appropriate infrastructure; the provision and adequate management of drinking water, [...] promoting the universality, quality and continuity of sanitation services, as

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<sup>432</sup> Spanish original at: [http://asp.mspas.gob.sv/regulacion/pdf/ley/codigo\\_de\\_salud.pdf](http://asp.mspas.gob.sv/regulacion/pdf/ley/codigo_de_salud.pdf) (Last visited 21 April 2011)

<sup>433</sup> Spanish original at: [http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes\\_equidad/local/03\\_ley\\_aguas.pdf](http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes_equidad/local/03_ley_aguas.pdf) (Last visited 20 April 2011)

<sup>434</sup> Spanish original available at: [http://legislacion.asamblea.gob.ni/Normaweb.nsf/\(\\$All\)/C0C1931F74480A55062573760075BD4B?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/($All)/C0C1931F74480A55062573760075BD4B?OpenDocument) (Last visited 15 April 2011)

<sup>435</sup> Spanish original available at: <http://www.congreso.gob.pe/ntley/Imagenes/Leyes/28611.pdf> (Last visited 20 April 2011)

well as the establishment of tariffs that are adequate and consistent with the cost of these services, their administration and improvement.

## **PERU**

***Water Resources Act, June 2009 (Unofficial translation)***<sup>436</sup>

### **Article 38 .- Zones of open access to basic water use**

The State guarantees free access to natural sources and public artificial channels, without alteration and preventing contamination, to satisfy directly the primary needs of the population. The National Authority creates where necessary, places or zones for open access.

## ***2.2.b. Non-discrimination and attention to vulnerable and marginalized groups***

## **PERU**

***Water Resources Act, June 2009 (Unofficial translation)***<sup>437</sup>

### **Article III: Principles**

The principles governing the use and integrated management of water resources are:

#### **5. Principle of respect for of water uses by Rural and Indigenous communities**

The State respects the customs of rural and indigenous communities and their right to use waters that pass through their lands, as long as it does not oppose the law. The State promotes ancient knowledge and technology of water use.

## **BOLIVIA**

***Law No. 2066 on Water and Sanitation Services, 11 April 2000 (Unofficial translation)***<sup>438</sup>

### **Article 22**

The providers of water or sanitation services, whatever their nature may be, are obliged to provide service to any user who demands it within their concession area, according to the terms established in the concession contracts for the extension of the coverage of the service.

The providers of drinking water or sanitation services may not discriminate between users of the same tariff category in the provision of the services.

## **ECUADOR**

***Constitution of the Republic of Ecuador, 2008***<sup>439</sup>

### **Article 37**

The State Shall guarantee elderly people the following rights;

#### **4. Discounts in public services [...]**

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<sup>436</sup> Spanish original available at: [http://gestion sostenibledelagua.files.wordpress.com/2010/06/leyderecursohidricos\\_29338.pdf](http://gestion sostenibledelagua.files.wordpress.com/2010/06/leyderecursohidricos_29338.pdf) (Last visited 20 April 2011)

<sup>437</sup> Spanish original available at: [http://gestion sostenibledelagua.files.wordpress.com/2010/06/leyderecursohidricos\\_29338.pdf](http://gestion sostenibledelagua.files.wordpress.com/2010/06/leyderecursohidricos_29338.pdf) (Last visited 20 April 2011)

<sup>438</sup> Spanish available at: [http://www.legislacionmunicipal.fam.bo/Archivo/Docs/Leyes/Ley\\_2066.pdf](http://www.legislacionmunicipal.fam.bo/Archivo/Docs/Leyes/Ley_2066.pdf) (Last visited 15 April 2011)

<sup>439</sup> Available at: [http://www.mmrree.gob.ec/pol\\_exterior/constit\\_eng.pdf](http://www.mmrree.gob.ec/pol_exterior/constit_eng.pdf) (Last visited 20 December, 2010).

## **CANADA**

***Canadian Human Rights Act, 1985, as amended 1998***<sup>440</sup>

### **Article 5: Denial of good, service, facility or accommodation**

It is a discriminatory practice in the provision of goods, services, facilities or accommodation customarily available to the general public

(a) to deny, or to deny access to, any such good, service, facility or accommodation to any individual, or

(b) to differentiate adversely in relation to any individual, on a prohibited ground of discrimination.

## **CANADA**

***British Columbia Human Rights Code, 1996, Last amended 2004***<sup>441</sup>

### **Article 8**

(1) A person must not, without a bona fide and reasonable justification,

(a) deny to a person or class of persons any accommodation, service or facility customarily available to the public, or

(b) discriminate against a person or class of persons regarding any accommodation, service or facility customarily available to the public

because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex or sexual orientation of that person or class of persons.

## **CANADA**

***Québec Charter of Human Rights and Freedoms, 1975 (as amended 01 December 2009)***<sup>442</sup>

### **Article 12:**

No one may, through discrimination, refuse to make a juridical act concerning goods or services ordinarily offered to the public.

## **CANADA**

***Ontario Human Rights Code, 1990 (as last amended 2009)***<sup>443</sup>

### **Article 1:**

Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability.

## **COLOMBIA**

***Law 142 establishing the regime for public household services of 11 July 1994 (Unofficial translation)***<sup>444</sup>

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<sup>440</sup> Available at: <http://laws.justice.gc.ca/en/H-6/index.html>. (Last visited 19 April 2011)

<sup>441</sup> Available at: [http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/00\\_96210\\_01](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96210_01) (Last visited 21 April 2011)

<sup>442</sup> Original available at: <http://www.cdpedj.qc.ca/en/commun/docs/charter.pdf> (Last visited 21 April 2011)

<sup>443</sup> Original available at: [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90h19\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90h19_e.htm) (Last visited 21 April 2011)

<sup>444</sup> Spanish original available at:

<http://www.aguasdemanizales.com.co/LinkClick.aspx?fileticket=Ty3iKjUsguo%3D&tabid=652> (Last visited 18 April 2011)

**Article 34: Prohibition of discriminatory, abusive or restrictive practices**

Public service companies, in all their acts and contracts, must avoid privileges and unjustified discrimination[...]

**COLOMBIA**

***Draft Water Law (Unconfirmed), 17 January 2005 (Unofficial translation)***<sup>445</sup>

**Article 3.5: Equity**

Everyone has the right to access to water, without discrimination of any kind.

**COSTA RICA**

***Law on the Regulating Authority for Public Services, Law 7593 of 9 August 1996, as amended 27 December 2002 (Unofficial translation)***<sup>446</sup>

**Article 12: Prohibition of discrimination**

Service providers shall not establish any kind of discrimination against a certain group, sector, class or individual consumer. The differential tariffs established for social reasons shall not constitute discrimination.

**COSTA RICA**

***Draft Law on Water Resources (Unconfirmed), proposal No. 14585, 2005 (Unofficial translation)***<sup>447</sup>

**Article 2: General Principles**

[...]

p) Gender equity: Women play a central role in the provision, management and protection of water.

**EL SALVADOR**

***Health Code, Decree No. 955 of 1988, as last amended 2008 (Unofficial translation)***<sup>448</sup>

**Article 100**

All developed or undeveloped property located in urbanized areas, whatever its destination may be, must be provided with water, drainage and sanitation services or the corresponding connections.

**GUYANA**

***Public Utilities Commission Act, Act No. 10 of 1999***<sup>449</sup>

**Section 32: Rates to be just and reasonable**

(1) Every rate made, demanded or received by any public utility from persons making use of the service provided by it, shall be just and reasonable [...]

**Section 34: Prohibition against discrimination in the matter of rate**

(1) No public utility shall provide to any person any service at a rate which is unduly preferential or discriminatory.

<sup>445</sup> Spanish original available at: [http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Colombia-Proyecto\\_de\\_Ley\\_del\\_Agua\\_\(2005\).pdf](http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Colombia-Proyecto_de_Ley_del_Agua_(2005).pdf). (Last visited 18 April 2011)

<sup>446</sup> Spanish original available at: [http://www.aresp.go.cr/docs/01-2003-ML\\_Ley\\_%20Autoridad\\_Regul.pdf](http://www.aresp.go.cr/docs/01-2003-ML_Ley_%20Autoridad_Regul.pdf). (Last visited 19 April 2011)

<sup>447</sup> Spanish original available at: <http://www.conare.ac.cr/proyectos/14585%20dic.htm>. (Last visited 21 April 2011)

<sup>448</sup> Spanish original at: [http://asp.mspas.gob.sv/regulacion/pdf/ley/codigo\\_de\\_salud.pdf](http://asp.mspas.gob.sv/regulacion/pdf/ley/codigo_de_salud.pdf) (Last visited 21 April 2011)

<sup>449</sup> Available at: <http://www.electricity.gov.gy/puca.pdf>. (Last visited 18 April 2011)



(2) Nothing in subsection (1) shall be deemed to prevent a public utility from demanding and receiving different rates from different classes of consumers.

## **HONDURAS**

***Decree No. 118-2003, Framework Law for the Drinking Water and Sanitation Sector (Unofficial translation)***<sup>450</sup>

### **Article 22**

Priority shall be given, without forbearing from the objectives of improved efficiency and quality, to the goals of maintaining and extending the coverage of potable water and sanitation services in economically deprived areas, applying criteria of equity.

## **HONDURAS**

***General Water Law, 2009 (Unofficial Translation)***<sup>451</sup>

### **Principles:**

The management of water resources shall meet the following principles:

[...]

c) Water is a social good, with an equitable access to it.

## **VENEZUELA**

***Water Law, 2 January 2007 (Unofficial translation)***<sup>452</sup>

### **Article 5**

The principles governing the integral management of water resources, based on the recognition of the full sovereignty the Republic exercises over water, are the following: [...]

3. Water is a social good. The State guarantees all urban, rural and indigenous communities access to water in accordance with their needs. [...]

## **MEXICO**

***Water Law of the Distrito Federal, 2003 (Unofficial translation)***<sup>453</sup>

### **Article 67**

In the case of domestic use, when the public service of drinking water does not exist or is suspended, the "Water System" shall consider possible alternatives for the supply by means of carriage tankers or provisional and public pumps. The provision of this service will be free of charge.

In terms of the establishment of the public service of drinking water in places that lack it, interested parties shall be notified by means of warnings that shall be placed on the corresponding streets.

## **BOLIVIA**

***Law No. 2066 on Water and Sanitation Services, 11 April 2000 (Unofficial translation)***<sup>454</sup>

### **Article 49: Objects of Registration**

<sup>450</sup> Spanish original available at: <http://faolex.fao.org/docs/pdf/hon41347.pdf>. (Last visited 20 April 2011)

<sup>451</sup> Spanish original available at: <http://faolex.fao.org/docs/pdf/hon92441.pdf> (Last visited 20 April 2011)

<sup>452</sup> Spanish original available at: <http://faolex.fao.org/docs/texts/ven69647.doc>. (Last visited 18 April 2011)

<sup>453</sup> Spanish original at:

[http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes\\_equidad/local/03\\_ley\\_aguas.pdf](http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes_equidad/local/03_ley_aguas.pdf) (Last visited 20 April 2011)

<sup>454</sup> Spanish original available at: [http://www.legislacionmunicipal.fam.bo/Archivo/Docs/Leyes/Ley\\_2066.pdf](http://www.legislacionmunicipal.fam.bo/Archivo/Docs/Leyes/Ley_2066.pdf) (Last visited 19 April 2011)

Objects of Registration are drinking water and sanitation services belonging to indigenous and native people, to peasants' communities, as well as associations, organisations and unions that function according to customs. The registration before the "Superintendency of Basic Sanitation", or the institution designated by the latter, guarantees the rights-holders legal security and shall be valid for the entire lifespan of the service. The registration shall be carried out in a collective manner, free of charge and expeditious, registration of individual natural persons shall not be possible. Such registrations shall be a precondition for access to government projects and programs in the sector.

## **CHILE**

***Indigenous Law, Law 19.253, 5 October 1993 (Unofficial translation)***<sup>455</sup>

### **Article 64**

No new water rights shall be granted on lakes, ponds, streams, rivers and aquifers that supply water to various Indian communities established by this law, without ensuring, in advance, the normal water supply to the affected communities.

## **PARAGUAY**

***Law on Water Resources, Law 3239 of 10 July 2007 (Unofficial translation)***<sup>456</sup>

### **Article 22:**

Respect and preservation of customary rights held by indigenous communities on the use, development and preservation of water resources, have priority over any other use of these water resources.

## **PARAGUAY**

***Law on Water Resources, Law 3239 of 10 July 2007 (Unofficial translation)***<sup>457</sup>

### **Article 3**

[...]

h) The management of water resources must take place in the framework of sustainable development, must be decentralised, participative and have a gender perspective.

## **NICARAGUA**

***Law on the autonomy of the regions of the Atlantic coast of Nicaragua, Law No. 28 of 1987 (Unofficial translation)***<sup>458</sup>

### **Article 11**

The inhabitants of the Communities of the Atlantic coast have a right to: [...]

3 – Use and enjoy the community waters, forests and lands [...]

### **Article 36**

The lands, waters, and forests that have traditionally belonged to the Communities of the Atlantic Coast constitute community property, and they are subject to the following provisions:

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<sup>455</sup> Spanish original available at: <http://www.indigenas.bioetica.org/19253cl.htm>. (Last visited 21 April 2011)

<sup>456</sup> Spanish original available at: [http://issuu.com/sectorproductivo/docs/ley\\_de\\_recursos\\_h\\_dricos](http://issuu.com/sectorproductivo/docs/ley_de_recursos_h_dricos) (Last visited 20 April 2011)

<sup>457</sup> Spanish original available at: [http://issuu.com/sectorproductivo/docs/ley\\_de\\_recursos\\_h\\_dricos](http://issuu.com/sectorproductivo/docs/ley_de_recursos_h_dricos) (Last visited 21 April 2011)

<sup>458</sup> Spanish original available at: <http://www.ccad.ws/documentos/legislacion/NC/L-28.pdf>. (Last visited 15 April 2011)

1.Community lands are inalienable; they cannot be donated, sold, encumbered nor mortgaged, and are imperishable.

## **GUATEMALA**

***Law on Social Development, Decreto 42-2001 (Unofficial translation)***<sup>459</sup>

### **Article 35: Migration, health and education**

The State shall promote, through the Ministries of Public Health and Social Assistance and Education and other public sector entities related to the subject matter, that migrant workers and their families have access to health, education and other basic services that improve their living conditions in their temporary residences.

## ***2.2.c. Participation and access to information***

## **BRAZIL**

***Law on Basic Sanitation, 2007***<sup>460</sup>

### **Article 26**

Publicity shall be granted to reports, studies, decisions and equivalent instruments referring to the regulation or inspection of services, as well as to the rights and duties of users and service providers; anyone shall have access to them, irrespective of direct interest. [...]

§ 1 Documents considered as being confidential due to relevant public interest shall be excluded from the provision of the caption to this article, upon previous and motivated decision.

§ 2 The publicity referred to under the caption to this article shall become effective, preferably, by means of a website on the world wide web - Internet.

### **Article 27**

Users of [basic] public sanitation services, in accordance to the legal, regulatory and contractual rules, are granted:

I - broad access to information on the services rendered;

II - previous knowledge of all their rights and duties and penalties to which they may be subject to;

III - access to a service delivery manual and user service manual, prepared by the service provider and approved by the corresponding regulatory entity;

IV - access to periodical reports on the quality of the services rendered.

### **Article 53**

The National System for Information on Basic Sanitation - SINISA - is established hereby, and its objectives are:

I - to collect and systematise data regarding the conditions of [basic] public sanitation-service delivery;

II - to provide for statistics, indicators and other relevant information for characterising the demand and supply of [basic] public sanitation services;

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<sup>459</sup> Spanish original available at: <http://www.unicef.org/guatemala/spanish/LeyDesarrolloSocial.pdf>. (Last visited 19 April 2011)

<sup>460</sup> Portuguese original and official English version available at: <http://www.cidades.gov.br/secretarias-nacionais/saneamento-ambiental/legislacao/leis/lei-do-saneamento-1/LeisSaneamentoIngles.pdf>. (Last visited 21 April 2011) Note that the Law on Basic Sanitation also covers drinking water supply.

III - to allow and facilitate the monitoring and evaluation of the efficiency and efficacy of the delivery of basic sanitation services.

§ 1 All information available to SINISA shall be made public and accessible to all, and must be published on the Internet.

§ 2 The Union shall support service holders in setting up information systems on basic sanitation, in compliance with the provisions of numeral VI of the caption to article 9 of this Law; [...]

## **COLOMBIA**

***Law 142 establishing the regime for public household services of 11 July 1994 (Unofficial translation)***<sup>461</sup>

### **Article 9: Rights of users**

The users of public services have the right [...]

9.4. - To request and obtain complete, precise and current information about all activities and direct and indirect operations that are carried out for the provision of public services [...]

## **COSTA RICA**

***Law on the Regulating Authority for Public Services, Law 7593 of 9 August 1996, as amended 27 December 2002 (Unofficial translation)***<sup>462</sup>

### **Article 35: Access to technical studies**

The Regulatory Authority shall grant to consumers and users of public services regulated by this law, the Office of the Public Advocate, and the ministers governing such services access to the technical research on which this establishment is based.

## **HONDURAS**

***Decree No. 118-2003, Framework Law for the Drinking Water and Sanitation Sector (Unofficial translation)***<sup>463</sup>

### **Article 25**

The users of the public potable water and sanitation services enjoy, inter alia, the following rights: [...]

2) To receive information about the provision of the services, tariff system and method of payment, plans regarding expansion and improvement of services, and any other circumstances that may be of their interest, with sufficient detail to enable them to exercise their rights as users; [...]

## **HONDURAS**

***General Water Law, 2009 (Unofficial translation)***<sup>464</sup>

### **Principles:**

The management of water resources shall meet the following principles:  
[...]

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<sup>461</sup> Spanish original available at: <http://www.aguasdeamanizales.com.co/LinkClick.aspx?fileticket=Ty3iKjUsguo%3D&tabid=652> (Last visited 18 April 2011)

<sup>462</sup> Spanish original available at: [http://www.aresp.go.cr/docs/01-2003-ML\\_Ley\\_%20Autoridad\\_Regul.pdf](http://www.aresp.go.cr/docs/01-2003-ML_Ley_%20Autoridad_Regul.pdf). (Last visited 19 April 2011)

<sup>463</sup> Spanish original available at: <http://faolex.fao.org/docs/pdf/hon41347.pdf>. (Last visited 20 April 2011)

<sup>464</sup> Spanish original available at: <http://faolex.fao.org/docs/pdf/hon92441.pdf> (Last visited 20 April 2011)

d) Citizens shall participate in the planning of the management, development, protection and preservation of water resources

## **PARAGUAY**

***General law governing the regulatory and tariff framework for the public drinking water and sanitation services for the Republic of Paraguay, Law 1614 of 2000 (Unofficial translation)***<sup>465</sup>

### **Article 35: Rights of the users**

The users have the following rights, without this list being exhaustive:

[...]

d) To receive from the provider general and adequate information about the service;

e) To know the pricing and tariff system, as well as the tariffs and their successive modifications with sufficient anticipation of its effective date; [...]

## **BRAZIL**

***Law on Basic Sanitation, 2007***<sup>466</sup>

### **Article 9**

The service holder shall draft the corresponding [basic] public sanitation policy, and, for that end, shall:

[...]

VI – establish an information system for the services that is combined with the National System of Information on Sanitation; [...]

### **Article 11**

The following are conditions for the validity of contracts for the delivery of [basic] public sanitation services:[...]

IV - holding a previous public hearing and consultation about the bidding announcement, in case of concession, and on the draft contract. [...]

§ 3 Contracts may not include clauses that jeopardise regulatory and inspection activities or access to information on the contracted services. [...]

## **COLOMBIA**

***Law 142 establishing the regime for public household services of 11 July 1994 (Unofficial translation)***<sup>467</sup>

### **Article 53: Systems of Information**

It is the responsibility of the Superintendence, in developing its functions of inspection and monitoring, to establish information systems that must organise and keep updated information on public service providers in order it to be credible towards the public.

In any case, the evaluations of public service companies made by external auditors shall be published at least annually through mass media in the territory where the service is provided, if such media exist. This evaluation shall be distributed widely among users.

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<sup>465</sup> Spanish original available at: <http://www.erssan.gov.py/Ley%201614-2000/Ley%20Nro.%201614.pdf>. (Last visited 21 April 2011)

<sup>466</sup> Portuguese original and official English version available at: <http://www.cidades.gov.br/secretarias-nacionais/saneamento-ambiental/legislacao/leis/lei-do-saneamento-1/LeisSaneamentoIngles.pdf>. (Last visited 21 April 2011) Note that the Law on Basic Sanitation also covers drinking water supply.

<sup>467</sup> Spanish original available at: <http://www.aguasdemanizales.com.co/LinkClick.aspx?fileticket=Ty3iKjUsguo%3D&tabid=652> (Last visited 18 April 2011).

The entities responsible for the provision of public household services shall periodically report, in a precise manner, on the utilisation of the subsidies allocated to them.

## **PARAGUAY**

***Law on Water Resources, Law 3239 of 10 July 2007 (Unofficial translation)***<sup>468</sup>

### **Article 3**

[...]

h) The management of water resources shall take place in the framework of sustainable development, shall be decentralised, participative and shall have a gender perspective.

### **Article 4**

The National Water Resource Policy shall be guided by the following fundamental objectives:

[...]

c) To facilitate and maintain adequate, integrated knowledge of water resources, in terms of the quantity, quality, and opportunity of their use, as well as knowledge of their essential role in creating human activity, [...]

k) To promote, in the heart of society, knowledge of the methods and necessary technologies for adequate management, usage, and conservation of water resources, and with attention to those things that more than any other natural resource, are set aside for common use. [...]

n) To favour and develop, gradually though actively, the participation of users by means of community organizations or those that are created and recognised as such within the mark of this law, as much in the planning of the development of water resources as in its administration and the control of its applications.

For similar provisions, *see also*:

Colombia, Draft Water Law (*Unconfirmed*), 2005, article 3.4.<sup>469</sup>

## **COLOMBIA**

***Law 142 establishing the regime for public household services of 11 July 1994 (Unofficial translation)***<sup>470</sup>

### **Article 5: The responsibility of municipalities in the provision of public services**

5.2 - To ensure [...] the participation of users in the management and financing of the entities that provide public services in the municipality. [...]

## **COSTA RICA**

<sup>468</sup> Spanish original available at: [http://issuu.com/sectorproductivo/docs/ley\\_de\\_recursos\\_h\\_dricos](http://issuu.com/sectorproductivo/docs/ley_de_recursos_h_dricos) (Last visited 21 April 2011)

<sup>469</sup> Spanish original available at: [http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Colombia-Proyecto\\_de\\_Ley\\_del\\_Agua\\_\(2005\).pdf](http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Colombia-Proyecto_de_Ley_del_Agua_(2005).pdf). (Last visited 21 April 2011)

<sup>470</sup> Spanish original available at: <http://www.aguasdemanizales.com.co/LinkClick.aspx?fileticket=Ty3iKjUsguo%3D&tabid=652> (Last visited 18 April 2011).

***Draft Law on Water Resources (Unconfirmed), proposal No. 14585, 2005 (Unofficial translation)***<sup>471</sup>

**Article 2: General Principles**

[...]

(n) Citizen participation: The State shall develop mechanisms to guarantee opportune and informed community participation and realise public consultations and decision-making procedures in the fields of conservation, management and use of water resources.

**DOMINICAN REPUBLIC**

***Law No. 64-00, General Law on the Environment and Natural Resources, 2000 (Unofficial translation)***<sup>472</sup>

**Article 6**

[...] The State guarantees the participation of communities, and the inhabitants of the country, in the conservation, management and sustainable use of the natural resources and the environment, as well as access to trustful and accurate information about the situation and the state of the same.

**PERU**

***General Law on the Environment, Law No. 28611 of 15 October 2005 (Unofficial translation)***<sup>473</sup>

**Article 3: Right to participate in environmental management**

Everyone has the right to participate in the decision making process in a responsible manner, as well as in the definition and application of the policies and measures related to the environment and its components. These policies and measures shall be adopted in each level of government. The state shall coordinate the decisions and actions of environmental management collaboratively with civil society.

**PERU**

***Water Resources Act, June 2009 (Unofficial translation)***<sup>474</sup>

**Article III: Principles**

The principles governing the use and integrated management of water resources are:

**3. Principle of public participation and water culture**

The State creates mechanisms for the participation of users and civil organizations in decision making that affects them in terms of water quality, quantity, timing or other features of the resource.

**VENEZUELA**

***Water Law, 2 January 2007 (Unofficial translation)***<sup>475</sup>

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<sup>471</sup> Spanish original available at: <http://www.conare.ac.cr/proyectos/14585%20dic.htm>. (Last visited 19 April 2011) The draft was approved by the Comisión Permanente Especial de Ambiente on 14/4/2005 and is currently under debate in Parliament.

<sup>472</sup> Spanish original available at: <http://docs.republica-dominicana.justia.com/nacionales/leyes/ley-64-00.pdf> (Last visited 19 April 2011)

<sup>473</sup> Spanish original available at: <http://www.congreso.gob.pe/ntley/Imagenes/Leyes/28611.pdf> (Last visited at 20 April 2011)

<sup>474</sup> Spanish original available at: [http://gestionsostenibledelagua.files.wordpress.com/2010/06/leyderecursoshidricos\\_29338.pdf](http://gestionsostenibledelagua.files.wordpress.com/2010/06/leyderecursoshidricos_29338.pdf) (Last visited 20 April 2011)

## Article 5

The principles governing the integral management of water resources, based on the recognition of the full sovereignty the Republic exercises over water, are the following: [...]

5. The integral management of water must take place in a participatory form.

[...]

7. Users of water shall contribute in the conservation of the water resource to secure the continuity of the quantity and quality of the waters.

8. It is the fundamental obligation of the state, together with the active participation of the society as a whole, to guarantee the conservation of the water resources, both at the surface and underground sources.

[...]

## Article 9

The State shall promote the participation of social organisations in the integral management of water by means of distribution of information in order to involve citizens in water-related problems and their possible solutions.

For similar provisions, *see also*:

Honduras, General Water Law, 2009, principles;<sup>476</sup>

Nicaragua, General National Water Law, 2007, article 13.<sup>477</sup>

## BRAZIL

***Law on Basic Sanitation, 2007***<sup>478</sup>

### Article 47

Social control over [basic] public sanitation services may include the participation of collegiate bodies with a consultative character, at the level of the states, the Federal District and municipalities, assuring representation by:

I - service holders;

II - governmental bodies related to the basic sanitation sector;

III - [basic] public sanitation service providers;

IV - basic sanitation service users;

V - technical entities, civil society and consumer defence organisations related to the basic sanitation sector.

### Article 51

The drafting and revision process of the basic sanitation plans must foresee its joint publicising along with the studies that support them, the receiving of suggestions and

<sup>475</sup> Spanish original available at: <http://faolex.fao.org/docs/texts/ven69647.doc>. (Last visited 18 April 2011)

<sup>476</sup> Available at: <http://faolex.fao.org/docs/pdf/hon92441.pdf> (Last visited 20 April 2011)

<sup>477</sup> Spanish original available at:

[http://legislacion.asamblea.gob.ni/Normaweb.nsf/\(\\$All\)/C0C1931F74480A55062573760075BD4B?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/($All)/C0C1931F74480A55062573760075BD4B?OpenDocument). (Last visited 21 April 2011)

<sup>478</sup> Portuguese original and official English version available at: <http://www.cidades.gov.br/secretarias-nacionais/saneamento-ambiental/legislacao/leis/lei-do-saneamento-1/LeisSaneamentoIngles.pdf>. (Last visited 21 April 2011)



criticism by means of public consultations or hearings and, whenever foreseen in the legislation of the service holder, an analysis and opinion by the collegiate body established in accordance with article 47 of this Law.

Sole paragraph. The dissemination of proposals for basic sanitation plans and of the studies that support them shall take place by making its content fully available to all interested parties, including on the Internet, and by means of public hearing.

## **COLOMBIA**

### ***Law 142 establishing the regime for public household services of 11 July 1994 (Unofficial translation)***<sup>479</sup>

#### **Article 62: Organisation**

[...] in all of the municipalities there shall be “Committees for Development and for the Social Control of Public Household Services,” composed of users, subscribers, or potential subscribers to one or more public services. The initiative for the creation of these committees belongs to the users, subscribers, or potential subscribers [...] The committees shall have their own regulations and shall convene at the place, date, and time agreed upon by their members. [...]

Once a committee is established, it is the obligation of municipal authorities and of public service companies before whom the committees solicit recognition to recognise these committees. Each one of these committees shall choose among its members and by majority decision a “Member of Control” who will act as its representative before public service providers [...] before territorial bodies and before national authorities in matters concerning said public services [...]

#### **Article 63: Functions**

[...] with the aim of ensuring the participation of users in the management and financing of companies providing public household services, the Committees on Development and Social Control of public household services will exercise the following special functions:

- To propose to public household service providers the plans and programs that are considered necessary to resolve deficiencies in the provision of public household services.

63.3 - To solicit the modification or reform of decisions adopted in the matter of stratification.

[...]

- To study and analyse the sum of subsidies that the municipality ought to grant, with its budgetary resources, to low income users; to examine the criteria and mechanisms for the delivery of those subsidies; and to propose adequate measures to this effect.

- To solicit [...] the imposition of fines on companies which provide public household services in their territory [...] when damages to users arise from the provision.

#### **Article 64: Functions of the “Vocal de Control” [“Member of Control”]**

The members of these committees will realise the following functions;

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<sup>479</sup> Spanish original available at:

<http://www.aguasdemanizales.com.co/LinkClick.aspx?fileticket=Ty3iKjUsguo%3D&tabid=652> (Last visited 18 April 2011). Note that the Law on Basic Sanitation also covers drinking water supply.

64.1 - To inform users of their rights and duties with respect to matters of public household services, as well as to help these users defend and realise those rights and duties respectively.

64.2 - To receive and evaluate reports of users concerning the operation of companies providing public household services; as well as to promote, before both these companies and the municipal authorities, departmental and national corrective measures that will be within each of their respective areas of responsibility.

64.3 - To give due attention to every request and to process complaints and charges raised in the committee by any committee member.

64.4 – to send the Committee reports on previous subjects, to receive its opinions, and to prepare necessary actions.

It is the obligation of public utility companies to process and respond to the applications of these members.

## **COSTA RICA**

***Law on the Regulating Authority for Public Services, Law 7593 of 9 August 1996, as amended 27 December 2002 (Unofficial translation)***<sup>480</sup>

### **Article 36: Convocations**

For matters referred to in this Article, the Regulatory Authority shall convene a hearing which engages persons with a legitimate interest in speaking. With that aim, the Regulatory Authority will arrange to publish, in the official Gazette and in two national newspapers, the following issues;

a) The applications for the regular fixing of costs and tariffs for public services.

c) The formulation and revision of technical norms applicable to the public services subject to regulation.

d) The formulation and revision of the models for the fixing of prices and costs, which are to conform with article 31 above.

After the publication a hearing will be arranged within a period of thirty calendar days for the presentation of objections based on technical studies.

The objections shall be formulated in writing and shall be presented with the pertinent factual and legal motivations. In this hearing those who have formulated the objections may speak up, as stipulated in the regulations.

The Regulatory Authority will establish a registry of associations for the defence of consumers and users, associations for community development, and other social organisations that will be able to oppose, when they have a legitimate interest, the contents of the publications.

## **MEXICO**

***Water Law of the Distrito Federal, 2003 (Unofficial translation)***<sup>481</sup>

### **Article 6**

In the formulation, execution, and monitoring of the policy of the integral management of water resources, the competent authorities shall observe the following principles [...]

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<sup>480</sup> Spanish original available at: [http://www.aresp.go.cr/docs/01-2003-ML\\_Ley\\_%20Autoridad\\_Regul.pdf](http://www.aresp.go.cr/docs/01-2003-ML_Ley_%20Autoridad_Regul.pdf). (Last visited 19 April 2011)

<sup>481</sup> Spanish original at: [http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes\\_equidad/local/03\\_ley\\_aguas.pdf](http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes_equidad/local/03_ley_aguas.pdf) (Last visited 20 April 2011)

V. The approach and management of water should be accompanied by a plan based on the participation of users, the planners, and those responsible for the making of decisions.

VII. Everyone has the right to receive and consent to information related to the management of water resources and the provision of hydraulic services; [...]

#### **Article 9**

The Executive Council of the Water System shall consist of thirteen proprietary members and their respective substitutes, in accordance with the following provision: [...]

II. A representative of legally constituted social organisations, a representative of organisations from the private sector, and a representative of academic or research institutions will be brought together around the subject of the present law. These representatives shall be proposed by the Secretary of the Environment and they will all spend 3 years in their posts. Their participation shall be of an honorary nature, and they shall have rights to speak.

#### **Article 21**

The policy instruments for the integrated management of water resources as well as those for the applicable contents in the Environmental Law are as follows [...]

IV. Social participation; [...]

#### **Article 22**

The planning of water resources and of hydraulic services in the Federal District shall be comprised of [...]

I. The integration, treatment, update, and diffusion of basic information regarding the management of water resources and hydraulic services;

II. The conducting of research that will allow for the coordinating and updating of the documented history concerning the availability, quality, and demand of water in the Federal District; [...]

#### **Article 30**

The Water System and the delegations, in the context of their respective responsibilities, shall promote the participation of all sectors of society involving in the management of water, by means of:

I. Their participation in the promotion and support in the establishment, consolidation and operation of groups spanning distinct sectors for the design and implementation of programs concerning the subject of water.

II. The dissemination of information and the promotion of cultural, educational, and training activities concerning the environment.

III. The promotion of pilot projects and demonstrations designed to produce information to support programs concerning water resources, hydraulic services, and the treatment and reuse of residual waters; and

IV. Their participation in the other actions as determined by the regulation of the present law.

### **COLOMBIA**

***Law 142 establishing the regime for public household services of 11 July 1994 (Unofficial translation)***<sup>482</sup>

**Article 65: The authorities and the participation of users**

For the adequate implementation of civic participation the following is incumbent upon the authorities:

65.1 - The municipal authorities should carry out a broad and continuous consultation with the community to implement the basic functional elements of the committees as well as to prepare and advise them permanently in their operation.

65.2 - The departments will be responsible for promoting and coordinating the system of participation, by means of action applicable throughout all of their territory.

In coordination with the municipalities and the Superintendence, they shall ensure the training of the members, providing them with the basic tools that permit them to better organize their work and to rely on the information necessary to represent the committees.

65.3 - The Superintendent's Office will have at its charge the design and implementation of a system of oversight and control that will enable it to aid in the tasks of the committees on development and social control of public utilities.

**Article 80: Functions concerning the participation of users**

The Office of the Superintendent shall have [...] the following functions to support the participation of users:

80.1- To design and implement a system of monitoring and control that allows it to support the tasks of the committees regarding development and social control of public utilities.

80.2 - To ensure the training of members, providing them with the basic instruments which will allow them to better organise their financing work and to rely on the necessary information to represent their committees.

80.3 - To provide the necessary technical support for the promotion of the participation of the community in tasks related to surveillance

**CANADA**

***Bill 27: An Act to Affirm the Collective Nature of Water Resources and Provide for Increased Water Resource Protection, 2009***<sup>483</sup>

**§4. — Principles of transparency and participation**

7. Under the conditions and within the limits defined by law, every person has a right of access to any information on water resources that is held by public authorities and a right to participate in public decision-making that affects those resources.

**2.2.d. Accountability**

**ARGENTINA**

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<sup>482</sup> Spanish original available at:

<http://www.aguasdemanizales.com.co/LinkClick.aspx?fileticket=Ty3iKjUsguo%3D&tabid=652> (Last visited 18 April 2011)

<sup>483</sup> Original available at:

<http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=5&file=2009C21A.PDF> (Last visited 19 April 2011)

***Water Code of the Province of Buenos Aires, Law 12.257 of 9 December 1998 (Unofficial translation)***<sup>484</sup>

**Article 58**

[...]

The regulation establishes mechanisms through which effective monitoring shall be made possible, both of the water source on which the supply system relies and of the network itself (capacity, control network, registration site, etc.). The regulation shall also establish the obligation to construct and maintain at cost adequate installations for the rational use and/or adoption of measures to protect and conserve the environment.

**BRAZIL**

***Law on Basic Sanitation, 2007***<sup>485</sup>

**Article 11**

The following are conditions for the validity of contracts for the delivery of [basic] public sanitation services: [...]

III - the existence of regulation rules that establish means for compliance with the guidelines of this Law, including the appointment of the regulatory and inspection entity; [...]

V - social control mechanisms for service planning, regulation and inspection activities. [...]

VI - hypotheses for intervention and resumption of services.

§ 3 Contracts may not include clauses that jeopardise regulatory and inspection activities or access to information on the contracted services. [...]

**Article 12**

In [basic] public sanitation services in which more than one provider carries out an interdependent activity with another, the relationship between them shall be ruled by a contract and one single entity shall be in charge of regulatory and inspection functions.

§ 1 The regulatory entity shall define, at least:

I - the technical standards for quality, quantity and regularity of services provided to users and among the several different providers involved;

II - the economic and financial rules regarding tariffs, subsidies and payments for services rendered to users and among the several different providers involved; [...]

**COLOMBIA**

***Law 142 establishing the regime for public household services of 11 July 1994 (Unofficial translation)***<sup>486</sup>

**Article 80: Functions concerning the participation of users**

The Office of the Superintendent shall have [...] the following functions to support the participation of users:

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<sup>484</sup> Spanish original available at: <http://www.gob.gba.gov.ar/legislacion/legislacion/l-12257.html>. (Last visited 19 April 2011)

<sup>485</sup> Portuguese original and official English version available at: <http://www.cidades.gov.br/secretarias-nacionais/saneamento-ambiental/legislacao/leis/lei-do-saneamento-1/LeisSaneamentoIngles.pdf>. (Last visited 21 April 2011) Note that the Law on Basic Sanitation also covers drinking water supply.

<sup>486</sup> Spanish original available at: <http://www.aguasdemanizales.com.co/LinkClick.aspx?fileticket=Ty3iKjUsguo%3D&tabid=652> (Last visited 18 April 2011)

80.4 - To sanction companies that fail to respond in a timely or adequate manner to the complaints made by users.

## **COSTA RICA**

***Law on the Regulating Authority for Public Services, Law 7593 of 9 August 1996, as amended 27 December 2002 (Unofficial translation)***<sup>487</sup>

### **Article 30: Change of tariffs**

Public service providers, legally constituted organisations of consumers, and any other relevant public entity shall be able to present applications for the change of charges and prices. The Regulatory Authority is required to receive and process those petitions, if they keep with the formal requirements that the regulation shall establish. The Regulatory Authority will be able to modify, approve, or reject these petitions. [...]

For similar provisions, *see also*:

Costa Rica, Draft Law on Water Resources (*Unconfirmed*), proposal No. 14585, 2005, article 47.<sup>488</sup>

## **MEXICO**

***Water Law of the Distrito Federal, 2003 (Unofficial translation)***<sup>489</sup>

### **Article 122**

Every person, social group, NGO, association, and society groups can report before the Solicitor General every fact, act, or omission that produces or can produce ecological imbalances or harm to the environment or to natural resources, or that contravenes the provisions of the present law and the other resolutions that regulate matters related to the protection of the environment and the preservation and restoration of the ecological equilibrium, in the terms established in the Organic Law of the Solicitor General.

## **COLOMBIA**

***Law 142 establishing the regime for public household services of 11 July 1994 (Unofficial translation)***<sup>490</sup>

### **Article 137: The repairs of defects in the provision of service**

A failure in service, from the moment in which it presents itself, entitles the subscriber or user to the cancellation of the contract, or to its fulfilment with the following reparations:

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<sup>487</sup> Spanish original available at: [http://www.aresp.go.cr/docs/01-2003-ML\\_Ley\\_%20Autoridad\\_Regul.pdf](http://www.aresp.go.cr/docs/01-2003-ML_Ley_%20Autoridad_Regul.pdf). (Last visited 19 April 2011)

<sup>488</sup> Spanish original available at: <http://www.conare.ac.cr/proyectos/14585%20dic.htm>. (Last visited 21 April 2011)  
The draft was approved by the Comisión Permanente Especial de Ambiente on 14/4/2005 and is currently under debate in Parliament.

<sup>489</sup> Spanish original at:  
[http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes\\_equidad/local/03\\_ley\\_aguas.pdf](http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes_equidad/local/03_ley_aguas.pdf) (Last visited 20 April 2011)

<sup>490</sup> Spanish original available at:  
<http://www.aguasdemanizales.com.co/LinkClick.aspx?fileticket=Ty3iKjUsguo%3D&tabid=652> (Last visited 18 April 2011).

137.1 There are no charges for anything other than what was actually consumed or for the use of goods or services effectively received, if the defect occurs continuously during the term of fifteen (15) days or more within the same billing period.

[...]

With respect to allowance for damages, under no circumstance shall it be valued at less than the value of consumption from the day in which the user was affected and for each day in which the service has completely failed, or in proportion to the duration of the defect; including the value of the fines, penalties, or surcharge that the defect has caused the subscriber or user to incur; including, also, the value of the investments or expenses incurred by the subscriber or user in trying to make up for the service.

#### **Article 152: The right to petition and appeal**

The essence of the contract of public services is that the subscriber or user can present to the company petitions, complaints, or appeals relating to the contract of public services.

#### **Article 153: On the Office for Petitions and Appeals**

All the public utility providers shall establish an “office for petitions, complaints, and appeals,” which has the obligation to receive, process, attend and respond to the petitions or claims and appeals, verbal or written, presented by users, subscribers, or potential subscribers in relation to the service or the services provided by said company.

These “offices” will have the detailed account of the petitions and appeals presented as well as of the steps or responses given.

The petitions and appeals will be processed in accordance with norms in effect concerning the right to petition.

### **COSTA RICA**

***Law on the Regulating Authority for Public Services, Law 7593 of 9 August 1996, as amended 27 December 2002 (Unofficial translation)***<sup>491</sup>

#### **Article 27: Handling of complaints**

The Regulating Authority shall manage, investigate and resolve, [...], any complaint regarding the provision of the public services regulated in this law.

### **HONDURAS**

***Decree No. 118-2003, Framework Law for the Drinking Water and Sanitation Sector (Unofficial translation)***<sup>492</sup>

#### **Article 25**

The users of the public drinking water and sanitation services enjoy, inter alia, the following rights:

1) To receive the service in the form and under the conditions established in the service provision entered into with the provider, which shall at least determine: [...]

b) administrative procedures for the presentation of complaints and other formalities.

[...]

3) To be heard by the provider regarding inquiries and complaints formulated when the quality of the water and of the services should be worse than determined, or if

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<sup>491</sup> Spanish original available at: [http://www.aresp.go.cr/docs/01-2003-ML\\_Ley\\_%20Autoridad\\_Regul.pdf](http://www.aresp.go.cr/docs/01-2003-ML_Ley_%20Autoridad_Regul.pdf). (Last visited 19 April 2011)

<sup>492</sup> Spanish original available at: <http://faolex.fao.org/docs/pdf/hon41347.pdf>. (Last visited 20 April 2011)

they should deteriorate to whatever kind of irregular conduct or omission that affects or damages their rights; [...]

## **MEXICO**

***Water Law of the Distrito Federal, 2003 (Unofficial translation)***<sup>493</sup>

### **Article 35: Rights of the users**

The users have the following rights, without this list being exhaustive:

[...]

b) To present in writing every type of claim and petition made before the provider, who will have the obligation to answer it in a proper manner and in a period of time that cannot exceed thirty days from the date of its presentation.

c) To appeal before ERSSAN [Regulatory Body for Water and Sanitation Services] where the provider does not give a timely or satisfactory response to the claims and petitions presented, or when a direct appeal before ERSSAN would have been appropriate; [...]

h) To report to ERSSAN any irregular conduct or omissions on the part of providers or other users that could affect their rights or damage the service or the environment; [...]

## **PERU**

***Organic Law for the Sustainable Use of Natural Resources, 1997 (Unofficial translation)***<sup>494</sup>

### **Article 5**

Citizens have the right to be informed and to participate in the process of drafting and adopting policies that relate to the preservation and sustainable use of natural resources. Citizens have a right to petition and to promote initiatives, either individually or collectively, together with the relevant authorities and in accordance with the concerning law.

## **GUYANA**

***Public Utilities Commission Act, Act No. 10 of 1999***<sup>495</sup>

### **Section 25: Duty to provide adequate service**

(1) Subject to subsection (2), every public utility shall maintain its property and equipment in such condition as to enable it to provide, and shall make every reasonable effort to provide, service to the public in all respects safe, adequate, efficient, reasonable and non-discriminatory[...]

### **Section 26: Proper service established on complaint**

(1) Where the Commission, after a hearing upon its own motion or upon a complaint, finds that the service provided by a public utility is not in accordance with section 25, the Commission shall by order determine and prescribe the adequate or reasonable service to be provided by the public utility, [...] and, [...], may also direct the public utility to pay to any consumer compensation for loss or damage suffered by the consumer on account of the failure of the public utility to comply with section 25. [...]

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<sup>493</sup> Spanish original at:

[http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes\\_equidad/local/03\\_ley\\_aguas.pdf](http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes_equidad/local/03_ley_aguas.pdf) (Last visited 20 April 2011)

<sup>494</sup> Spanish original available at: <http://www.cepes.org.pe/legisla/aguas/normas-comp/ley26821.htm> (Last visited 20 April 2011)

<sup>495</sup> Available at: <http://www.electricity.gov.gy/puca.pdf>. (Last visited 18 April 2011)



## **Section 52: Complaint**

(1) A complaint under this Act against a public utility may be made by the Minister or any person (including any other public utility) having an interest in the subject matter. [...]

## **Section 55: Representative complaint**

(1) The Commission may permit one or more persons to make a complaint against a public utility, on behalf of a class of consumers or all consumers in relation to that public utility[...]

## **Section 57: Fixing of hearing**

(1) Where a public utility satisfies a complaint against it within the time specified therefore or extended by the Commission, the complaint shall be dismissed by the Commission.

(2) Where a public utility does not satisfy the complaint within the time specified therefore or extended by the Commission, the complaint shall be dismissed by the Commission, and it appears to the Commission from a consideration of the complaint and answer thereto, or otherwise, that reasonable ground exists for investigating the complaint, the Commission shall fix a date, time and place for investigation and hearing of the matter. [...]

## **Section 58: Hearings to be public**

Subject to the confidentiality restrictions contained in section 83 (5), all hearings before the Commission shall be public and the parties to the proceedings shall be entitled to be heard in person or by counsel.

## **Section 59: Decision of Commission**

(1) After the conclusion of the hearing, the Commission shall make an order in writing which shall state the time within which the order is to be complied with.

## **2.2.e. Accessibility of water and sanitation**

### **EL SALVADOR**

**Health Code, Decree No. 955 of 1988, as last amended 2008 (Unofficial translation)**<sup>496</sup>

#### **Article 100**

IV. All developed or undeveloped property situated in an urban area, whatever its destination may be, must be provided with water, drainage and sanitation services or the corresponding connections.

### **ARGENTINA**

**Water Code of the Province of Córdoba, Law 5589/73, as amended by Law 8928/01 (Unofficial translation)**<sup>497</sup>

#### **Article 37: Right to common use**

Every person has the right to make common use of the terrestrial waters (subterranean and emerging waters, the waters of lakes and rainwater) so that

<sup>496</sup> Spanish original at: [http://asp.mspas.gob.sv/regulacion/pdf/ley/codigo\\_de\\_salud.pdf](http://asp.mspas.gob.sv/regulacion/pdf/ley/codigo_de_salud.pdf) (Last visited 21 April 2011)

<sup>497</sup> Spanish original available at: [http://www.cba.gov.ar/imagenes/fotos/5589%20CODIGO%20DE%20AGUAS\(Actualizado\).pdf](http://www.cba.gov.ar/imagenes/fotos/5589%20CODIGO%20DE%20AGUAS(Actualizado).pdf). (Last visited 19 April 2011)

everyone always has free access to those waters as long as one does not exclude another from exercising the same right.

**Article 38: Enumeration of common uses**

The common uses authorised by this Code are the following:

1) Drinking, human hygiene, domestic uses and watering of plants, always under the condition that the extraction is done by hand, without any kind of machine or equipment, without contamination of the water resources,

**Article 40: Priority and absence of charges**

Common uses have absolute priority over any form of private use and concessions or permits shall in no case limit their exercise. Common uses are free of charge; rates can only be imposed if the provision of a service is required for their exercise.

**ARGENTINA**

***Water Code of the Province of Buenos Aires, Law 12.257 of 9 December 1998 (Unofficial translation)***<sup>498</sup>

**Article 25**

Every person may make use of public water free of charge and in conformity with the general regulations to satisfy domestic needs of drinking and hygiene, free transportation of persons and goods, [...] It is prohibited, however, to contaminate the environment or prejudice equal rights of third parties.

**BELIZE**

***Draft Water Resources Management Act, 25 May 2006***<sup>499</sup>

**Article 2**

(1) In this Act, unless the context otherwise requires, [...]

“domestic use” in relation to the abstraction of water means the use of such water for drinking, washing, cooking and sanitary purposes in connection with a residence; or farming, gardening, the watering of stock or pen-keeping in connection with a household where the entire area of land does not exceed 5 acres;

**Article 10**

(2) A person may abstract and use water without a licence if the water is required for either or both of the following purposes, [...]

(i) domestic use; [...]

**Article 41**

(3) Unless the Order specifies otherwise, it shall not be unlawful to use any reserved water for domestic use.

**COSTA RICA**

***Water Law, Law 276 of 27 August 1942, as last amended by Law 7593 of 9 August 1996 (Unofficial translation)***<sup>500</sup>

**Article 11**

<sup>498</sup> Spanish original available at: [http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Argentina-Codigo\\_de\\_Aguas\\_%5BBeunos\\_Aires%5D\\_%281999%29.pdf](http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Argentina-Codigo_de_Aguas_%5BBeunos_Aires%5D_%281999%29.pdf) (Last visited 21 April 2011)

<sup>499</sup> Available at: [http://www.gpcbelize.com/press\\_releases/WaterResourcesBill%20-%20Draft%207.pdf](http://www.gpcbelize.com/press_releases/WaterResourcesBill%20-%20Draft%207.pdf).

<sup>500</sup> Spanish original available at: [http://www.aresp.go.cr/docs/01-2003-ML\\_Ley\\_%20Autoridad\\_Regul.pdf](http://www.aresp.go.cr/docs/01-2003-ML_Ley_%20Autoridad_Regul.pdf). (Last visited 19 April 2011)

Waters that are flowing in their natural and public courses and are not subject to a private concession, can be used by everyone for drinking, washing of clothes, pots and any other objects, bathing or [...]

## **DOMINICA**

***Water and Sewerage Act, 1989***<sup>501</sup>

### **Article 42: Private use of water**

[...] the occupier of any land, his family and employees ordinarily resident on that land are entitled to abstract and use any water on, adjacent to, or under that land for the domestic necessities of his household, including the watering of livestock and the irrigation of a subsistence garden, [...]

## **DOMINICAN REPUBLIC**

***Law No. 64-00, General Law on the Environment and Natural Resources, 2000***  
**(Unofficial translation)**<sup>502</sup>

### **Article 127**

Everyone has the right to use water in order to satisfy their vital human needs of nutrition and hygiene, the needs of their family and their animals, always in such a way that their use does not cause prejudice to other users and does not imply diversions or containment, nor the use of machines or the realisation of activities that in any way deteriorate or damage the watercourse and its margins, that alter it, pollute it or make impossible its use by third persons.

## **PERU**

***Water Resources Act, June 2009*** (Unofficial translation)<sup>503</sup>

### **Article 40 Access of the Population to safe drinking water**

The State guarantees all persons the right to access drinking water in sufficient quantity, safety and quality to satisfy their personal and domestic needs.

For similar provisions, *see also*:

Chile, Water Code, DFL No. 1122 of 1981, as last amended by Law No. 20099, 2006, article 56,<sup>504</sup>

Costa Rica, Draft Law on Water Resources (*Unconfirmed*), proposal No. 14585, 2005, article 49;<sup>505</sup>

<sup>501</sup> Available at: [http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Dominica-Water\\_and\\_Sewage\\_Act\\_\(1989\).pdf](http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Dominica-Water_and_Sewage_Act_(1989).pdf). (Last visited 21 April 2011)

<sup>502</sup> Spanish original available at: <http://docs.republica-dominicana.justia.com/nacionales/leyes/ley-64-00.pdf> (Last visited 19 April 2011)

<sup>503</sup> Spanish original available at: [http://gestion sostenibledelagua.files.wordpress.com/2010/06/leyderecursos hidricos\\_29338.pdf](http://gestion sostenibledelagua.files.wordpress.com/2010/06/leyderecursos hidricos_29338.pdf) (Last visited 20 April 2011)

<sup>504</sup> Spanish original available at: [http://www.centralenergia.cl/uploads/2009/10/DFL-1122\\_13-DIC-2008.pdf](http://www.centralenergia.cl/uploads/2009/10/DFL-1122_13-DIC-2008.pdf) (Last visited 21 April 2011)

<sup>505</sup> Spanish original available at: <http://www.conare.ac.cr/proyectos/14585%20dic.htm>. (Last visited 21 April 2011) The draft was approved by the Comisión Permanente Especial de Ambiente on 14/4/2005 and is currently under debate in Parliament.

## **EL SALVADOR**

***Health Code, Decree No. 955 of 1988, as last amended 2008 (Unofficial translation)***<sup>506</sup>

### **Article 62**

In rural areas, the State shall encourage local people to establish, operate and maintain aqueducts, by giving them the technical assistance necessary and economic assistance possible, subject to its resources.

## **PANAMA**

***Law for the reorganisation and modernisation of the Institute of National Aqueducts and Sewerages, Law No. 77 of 28 December 2001 (Unofficial translation)***<sup>507</sup>

### **Article 40**

Water and sanitation services are obligatory for every property within an area in which water distribution pipes and wastewater collectors are installed. [...]

## **PARAGUAY**

***General law governing the regulatory and tariff framework for the public drinking water and sanitation services for the Republic of Paraguay, Law 1614 of 2000 (Unofficial translation)***<sup>508</sup>

### **Article 5: Objectives of the regulatory framework**

b) promote the expansion of the service to the entire population and improve the quality levels with a view to achieve acceptable quality levels which are similar; [...]

## **PERU**

***General Law on Sanitation Services, Law 26338 of 24 July 1994 (Unofficial translation)***<sup>509</sup>

### **Article 11**

Every person, natural or legal, residing within the area for which a service provider is responsible, has the right to be provided with the services offered by that entity, [...]

## **COLOMBIA**

***Law 142 establishing the regime for public household services of 11 July 1994 (Unofficial translation)***<sup>510</sup>

### **Article 160: Priorities in the application of norms**

When the Regulatory Committee on Water and Sanitation as well as the Office of the Superintendent for Public Utilities apply the standards of competence, they shall give priority to the objective of maintaining and extending the coverage of those services, particularly in rural areas, small municipalities or urban areas of the first and second "strata"; in such a manner, without compromising the objectives of improving

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<sup>506</sup> Spanish original at: [http://asp.mspas.gob.sv/regulacion/pdf/ley/codigo\\_de\\_salud.pdf](http://asp.mspas.gob.sv/regulacion/pdf/ley/codigo_de_salud.pdf) (Last visited 21 April 2011)

<sup>507</sup> Spanish original available at: <http://www.idaan.gob.pa/PDF/leyes/ley77.pdf> (Last visited 19 April, 2011)

<sup>508</sup> Spanish original available at: <http://www.erssan.gov.py/Ley%201614-2000/Ley%20Nro.%201614.pdf>. (Last visited 21 April 2011)

<sup>509</sup> Spanish original available at: [http://www.sunass.gob.pe/docs/normas%20legales/ley\\_26338.htm](http://www.sunass.gob.pe/docs/normas%20legales/ley_26338.htm) (Last visited 20 April 2011)

<sup>510</sup> Spanish original available at: <http://www.aguasdemanizales.com.co/LinkClick.aspx?fileticket=Ty3iKjUsguo%3D&tabid=652> (Last visited 18 April 2011)

efficiency, competency, and quality, these services shall be accomplished without any sacrifice of coverage.

*Utility expenses are related to the strata number where a property is located. 1<sup>st</sup> and 2<sup>nd</sup> strata refers to areas inhabited by the the two lowest levels of income earners (out of 6).*

## **GUATEMALA**

***New Health Code, Decreto 90-97 (Unofficial translation)***<sup>511</sup>

### **Article 78: Universal access and coverage**

The State shall, [...] pursue a priority policy of public necessity, that guarantees that the population has universal access and coverage of potable water services [...]

### **Article 93: Access and coverage**

The Ministry of Health, in conjunction with the institutions of the sector, the municipalities and the organised community, shall promote the universal coverage of the population with services for the final disposal of excreta, the transport and treatment of wastewater [...]

### **Article 89: Connection of services**

The proprietors or owners of land and water supplies situated in urban areas provided with central networks of drinking water shall connect these services in accordance with municipal regulations; it is incumbent upon the municipalities to control compliance with this disposition.

## **NICARAGUA**

***General Law on National Water Resources, 15 May 2007 (Unofficial translation)***<sup>512</sup>

### **Article 71**

In such cases where there exists no permanent and continuous coverage of the aqueduct system for the provision of drinking water, the institutions competent and responsible for this public service are obliged to temporarily guarantee the minimum provision in quantity and quality in any form and through any measure. The same institutions shall elaborate the basic projects for the provision of drinking water at accessible costs, especially when destined for marginal sectors or populations living in precarious urban and rural areas.

## **MEXICO**

***General Law on Social Development, 2004 (Unofficial translation)***<sup>513</sup>

**Article 19.** Of priority and public interest are:

IX. Programs and infrastructure for water, sewerage, electricity, (..), sanitation and urban infrastructure.

## **BRAZIL**

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<sup>511</sup> Original Spanish version at: <http://www.ccad.ws/documentos/legislacion/GT/DL-90-97.pdf> (Last visited 19 April 2011)

<sup>512</sup> Spanish original available at: [http://legislacion.asamblea.gob.ni/Normaweb.nsf/\(\\$All\)/C0C1931F74480A55062573760075BD4B?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/($All)/C0C1931F74480A55062573760075BD4B?OpenDocument). (Last visited 15 April 2011)

<sup>513</sup> Spanish original available at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/264.pdf> (Last visited 20 April 2011)

***Organic law of the Municipality of Porto Alegre, 1990, last amended in 2007 (Unofficial translation)***<sup>514</sup>

**Article 219**

The populations living in non-regularised settlements are entitled to be served by municipal public services

**NICARAGUA**

***General Law on National Water Resources, 15 May 2007 (Unofficial translation)***<sup>515</sup>

**Article 5**

It is the obligation and undeniable priority of the State to promote, provide, and adequately regulate the provision of potable water to the Nicaraguan people in sufficient quantity and quality and at differentiated costs, while also supporting the sectors with less economic resources. **The provision of this vital service to the consumers in an obvious state of extreme poverty cannot be interrupted, except for an unavoidable reason, having to proportionate in all the cases alternatives to the temporal supply, either in fixed places or in itinerant ones.** Moreover, these services cannot be disconnected to hospitals, health centres, schools, orphanages, nursing homes, penitentiaries, fire stations, nor public markets.

***2.2.f. Affordability of water and sanitation***

**CANADA**

***Montréal Charter of Rights and Responsibilities, 2006***<sup>516</sup>

**Article 18: Commitments**

To foster the economic and social rights of citizens, Montréal is committed to: [...] g) Ensuring that no citizen is denied a supply of drinking water for economic reasons.

**NICARAGUA**

***Law governing the suspension of concessions for the use of water, Law 440 of 11 August 2003 (Unofficial translation)***<sup>517</sup>

**Article 1**

[...]The State shall guarantee and facilitate adequate provision of drinking water at a just and fair price for all Nicaraguans.

**NICARAGUA**

***General Law on National Water Resources, 15 May 2007 (unofficial translation)***<sup>518</sup>

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<sup>514</sup> Portuguese original version available at:

[http://www.dhnet.org.br/direitos/municipais/a\\_pdf/lei\\_organica\\_rs\\_porto\\_alegre.pdf](http://www.dhnet.org.br/direitos/municipais/a_pdf/lei_organica_rs_porto_alegre.pdf). (Last visited 21 April 2011)

<sup>515</sup> Spanish original available at:

[http://legislacion.asamblea.gob.ni/Normaweb.nsf/\(\\$All\)/C0C1931F74480A55062573760075BD4B?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/($All)/C0C1931F74480A55062573760075BD4B?OpenDocument). (Last visited 15 April 2011)

<sup>516</sup> Available at:

[http://ville.montreal.qc.ca/pls/portal/docs/page/charte\\_mtl\\_en/media/documents/charte\\_droits\\_en.pdf](http://ville.montreal.qc.ca/pls/portal/docs/page/charte_mtl_en/media/documents/charte_droits_en.pdf). (Last visited 19 April 2011)

<sup>517</sup> Spanish original available at:

[http://legislacion.asamblea.gob.ni/Normaweb.nsf/\(\\$All\)/4D92EC09C7838B2B0625722C005CEB50?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/($All)/4D92EC09C7838B2B0625722C005CEB50?OpenDocument). (Last visited 15 April 2011)

## **Article 71**

In such cases where there exists no permanent and continuous coverage of the supply system for drinking water, the institutions competent and responsible for this public service are obliged to temporarily guarantee the minimum provision in quantity and quality, in any form and through any measure. These institutions shall elaborate basic projects to supply drinking water affordable for everyone, especially when destined for marginal sectors or populations living in urban squatter settlements or rural areas.

## **PANAMA**

***Law for the reorganisation and modernisation of the Institute of National Aqueducts and Sewerages, Law No. 77 of 28 December 2001 (Unofficial translation)***<sup>519</sup>

### **Article 43**

The drinking water services provided by IDAAN [Institute of National Aqueducts and Sewerages] to persons with a family income that is proved to be below the basic basket of goods, are considered social cases and shall be subsidised by the State in accordance with the following parameters: [...]

1. The subsidy shall be granted to poor families or to those of extreme poverty at a discount in the value of the monthly fee which these people shall pay-off.
2. The subsidy granted to each family shall be revised and updated every two years.
3. The subsidy shall be limited to a maximum of eighty-five per cent and a minimum of twenty (20%) per cent of basic family consumption. [...]

## **UNITED STATES**

***California Public Utilities Code, 1993***<sup>520</sup>

### **Section 739.8.**

(a) Access to an adequate supply of healthful water is a basic necessity of human life, and shall be made available to all residents of California at an affordable cost.

For similar provisions, *see also*:

Guyana, Public Utilities Commission Act, 1999, Sections 32 and 34.<sup>521</sup>

## **COLOMBIA**

***Law 142 establishing the regime for public household services of 11 July 1994 (Unofficial translation)***<sup>522</sup>

### **Article 87: Criteria for the definition of a tariff system**

The tariff system will be guided by the criteria of economic efficiency, neutrality, solidarity, redistribution, financial sufficiency, simplicity, and transparency.

<sup>518</sup> Spanish original available at:

[http://legislacion.asamblea.gob.ni/Normaweb.nsf/\(\\$All\)/C0C1931F74480A55062573760075BD4B?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/($All)/C0C1931F74480A55062573760075BD4B?OpenDocument). (Last visited 15 April 2011)

<sup>519</sup> Spanish original available at: <http://www.idaan.gob.pa/PDF/leyes/ley77.pdf> (Last visited 19 April 2011)

<sup>520</sup> Available at: [http://www.legaltips.org/california/california\\_public\\_utilities\\_code/](http://www.legaltips.org/california/california_public_utilities_code/) (Last visited 21 April 2011)

<sup>521</sup> Available at: <http://www.electricity.gov.gy/puca.pdf>. (Last visited 21 April 2011)

<sup>522</sup> Spanish original available at:

<http://www.aguasdemanizales.com.co/LinkClick.aspx?fileticket=Ty3iKjUsguo%3D&tabid=652> (Last visited 18 April 2011)

87.2 – Neutrality means that each consumer is entitled to receive the same treatment with respect to cost as any other consumer, if the characteristics of the costs incurred by public service companies are equal. The exercise of this right should not prevent public service companies from offering pricing options, nor should it prevent the consumer from choosing that which suits his/her needs.

87.3 - By solidarity and redistribution it is to be understood that, with respect to the creation of a tariff system, measures will be adopted to assign resources to “solidarity and redistribution funds,” so that higher income as well as commercial or industrial users can help users of lower means to pay the service fees which will cover their basic needs.

87.5 - Simplicity means that the tariff formulas will be developed in such a manner as to facilitate their comprehension, application, and control.

87.6 – Transparency means that the tariff system will be explicit and completely public for everyone involved in the service and for users.

#### **Article 99: Form of subsidies**

The bodies mentioned in article 368 of the Constitution have the power to concede subsidies in their respective budgets in accordance with the following rules:

**99.5** Subsidies shall not exceed in any case, the value of basic livelihood consumption. Mayors and Council Members shall take steps to create and execute , in the municipal budget, appropriations to subsidize basic water supply for consumption [and sanitation] for users with limited resources and they shall extend the coverage and improve quality of drinking water and basic sanitation, giving priority to these appropriations, within the capabilities of the municipality, above other expenditures which are not indispensable for the functioning. Violation of this duty will result in disciplinary action.

### **DOMINICA**

#### ***Water and Sewerage Act, 1989***<sup>523</sup>

##### **Article 22: Services of company to be paid for**

(3) There shall be no direct charge for water used by the public from public stand-pipes, but this service shall be considered an obligation of Government or the relevant municipal authority who shall pay to the Company the price of water served through public stand-pipes.

### **MEXICO**

#### ***Water Law of the Distrito Federal, 2003 (Unofficial translation)***<sup>524</sup>

##### **Article 6**

In the formulation, execution, and monitoring of the policy for the integral management of water resources, the competent authorities will take into consideration the following principles [...]

X. The authorities must adopt measures that include the use of techniques and low-cost technologies, a policy of appropriate prices for marginalised zones or common

<sup>523</sup> Available at: [http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Dominica-Water\\_and\\_Sewage\\_Act\\_\(1989\).pdf](http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Dominica-Water_and_Sewage_Act_(1989).pdf). (Last visited 21 April 2011)

<sup>524</sup> Spanish original at: [http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes\\_equidad/local/03\\_ley\\_aguas.pdf](http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes_equidad/local/03_ley_aguas.pdf) (Last visited 20 April 2011)



housing, as well as the adoption of institutional mechanisms oriented toward labour benefits for access to quality water services.

XI. The determination of payment for water services should be based on the principle of equity, assuring that these services are accessible to everyone including vulnerable social groups; [...]

#### **Article 67**

In the case of domestic use, when the public service of drinking water does not exist or is suspended, the Water System shall consider possible manners/alternatives for the supply by means of carriage tankers or provisional and public pumps. The provision of this service will be free of charge. [...]

### **PARAGUAY**

***Tariff Regulations for Licensees with respect to Law No. 1614/2000 (Unofficial translation)***<sup>525</sup>

#### **Article 58: Application of consumption subsidies**

A subsidy shall be applied to payment for the consumption of drinking water or the use of a sewage system – including the payment of the connection fee – that shall favour residential users with scant resources.

The subsidy can be applicable to the fixed and/or variable charges and/or charges for connection corresponding to the household where its beneficiaries live in a permanent manner.

#### **Article 59: The amount of the subsidy**

The monthly total of the subsidy for a household attributed with variable charges cannot exceed the lowest value resulting from the application of the percentage of the subsidy that shall be based on the following values:

- a) The variable charge corresponding to effective consumption.
- b) The variable charge corresponding to a household's total monthly consumption equivalent to fifteen (15) cubic meters.

The monthly total of the subsidy for each household with fixed charges shall be established so as to apply to those charges the percentage of the subsidy that is determined.

The percentage of subsidies for fixed and variable charges shall be determined in conformity with the relevant research conducted by ERSSAN [Regulatory Body for Water and Sanitation Services]. This percentage should be the same for beneficiaries who present comparable/similar socio-economic status. Said percentages shall be distributed separately among the fixed and variable charges.

The subsidy on the connection costs shall correspond to 50 per cent of the value established in Article 98 of the present regulation.

#### **Article 60: Conditions for access to the subsidy**

To be considered for the subsidy, it shall be necessary to comply with the following requirements:

- a) Taking into account their socio-economic conditions, it is impossible for the family of users living in the property to pay the full amount of the value of the service provisions.
- b) In order to determine the socio-economic level of each eligible residential user for the purposes of granting of the subsidy, the information referring to the income level

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<sup>525</sup> Spanish original available at: <http://www.erssan.gov.py/Ley%201614-2000/Reglamento%20de%20Tarifas%20para%20Concesionarios.DOC>. (Last visited 21 April 2011)

of the family, household and estate should be considered, provided by the General Department of Statistics, Surveys and Censuses (DGEEC), information from which objective indicators of the socio-economic situation can be established.

c) Users must not be in arrears with payment of the service in question.

d) Those indicated by ERSSAN or by the Titular of Service.

[...]

In any case, for the definition of users eligible for the subsidy, groups of users that live in urban sectors that have the character of underprivileged urban sectors can be considered. For this purpose, the person entitled to the service shall present to ERSSAN the records that allow for the categorization of an urban sector as an area characterised by inhabitants of scant resources. ERSSAN shall authorise the application of the subsidy in urban sectors.

## **BRAZIL**

### ***Law on Basic Sanitation, 2007***<sup>526</sup>

#### **Article 29**

[Basic public] sanitation services shall be granted economic and financial sustainability, whenever possible, by means of remuneration[...]

§ 1 [...] the implementation of tariffs, public dues and fees for basic sanitation services shall observe the following guidelines:

I - priority to fulfilling essential functions associated to public health;

II - expansion of access to services for low income citizens and localities;

[...]

§ 2 Tariff and non-tariff subsidies may be adopted for users and localities without enough payment capacity or economic scale for covering the integral cost of services.

#### **Article 30**

In complying with the provisions of Article 29 of this Law, the remuneration structure and the collection of [basic] public sanitation services may take into account the following aspects:

I - user categories, distributed by groups or increasing volumes of use or consumption;

II - the use and quality standards required;

III - minimum amount of consumption or use of service, aiming at [guaranteeing] the social objectives, such as the preservation of public health, appropriate service to low income users and the protection of the environment;

IV - the minimum cost required for making service available in an appropriate quantity and quality;

V - significant cycles of increase in the demand of services, during different periods; and

VI - the payment capacity of users.

#### **Article 31**

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<sup>526</sup> Portuguese original and official English version available at: <http://www.cidades.gov.br/secretarias-nacionais/saneamento-ambiental/legislacao/leis/lei-do-saneamento-1/LeisSaneamentoIngles.pdf>. (Last visited 21 April 2011) Note that the Law on Basic Sanitation also covers drinking water supply.

The subsidies required for serving low income users and localities shall be, depending on the characteristics of the beneficiaries and on the origin of resources:

I - direct subsidies, whenever [directed at] certain users; or indirect, when destined to the service provider;

II - tariff subsidies, when they are integrated into the tariff structure; or fiscal subsidies, when deriving from the allocation of budgetary resources, including by means of subventions;

III - internal subsidies for each holder or among localities, in the [case of] of associated management and regional delivery.

## **CHILE**

***Law 18778, Establishing a Subsidy for Payment for the Use of Drinking Water and Sewerage Services, 1989, last modified October 17, 1994***<sup>527</sup>

### **Article1**

Establishing a subsidy scheme for of drinking water and sewerage services, in favor of low-income residential users. [...]

### **Article 3**

To apply for the subsidy, one must meet the following requirements:

Applicants must be unable to pay the full costs of the services, considering their socio-economic conditions. At least the information regarding the household income and value of property shall be taken into consideration in order to establish the socio-economic status of an applicant.

The applicants have to be up to date with their payments for the services to which this law applies; and,

They should submit a written application to the municipality that is competent for the residence concerned.

### **Article10**

When a subsidy is granted for investment in rural drinkwater systems, this subsidy will be used to cover the difference between the costs of the investment and the costs financed by the users according to their respective payment capacity. The foregoing is without prejudice to the contributions that can be granted for investment in such systems by application of other laws. The subsidy is to be financed by allocations provided in the country budget for the Ministry of Public Works. [...]

The regional government determines the distribution of such subsidies according to the criteria set out in the Regulations.

## **HONDURAS**

***Decree No. 118-2003, Framework Law for the Drinking Water and Sanitation Sector (Unofficial translation)***<sup>528</sup>

### **Article 36**

The tariffs for water and sanitation services provided to users with low family incomes, which are determined by means of socio-economic studies, shall be set in a manner that allows a partial recovery of costs and shall, as long as the condition of social vulnerability endures, be assigned as preferential tariffs.

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<sup>527</sup> Spanish original version available at: <http://intranet.munistgo.cl/integridad/web2/file/tei/leyes/18778.pdf> (Last visited 21 April 2011)

<sup>528</sup> Spanish original available at: <http://faolex.fao.org/docs/pdf/hon41347.pdf>. (Last visited 20 April 2011)

## NICARAGUA

**General law on drinking water and sanitation services, Law No. 297 of 2 July 1998 (Unofficial translation)**<sup>529</sup>

### Article 40

(1) The State shall establish a rational subsidy system for the use of potable water and sanitation services, exclusively intended for the low income sectors of the population whose consumption is limited to basic needs. [...]

(2) The State shall establish cross subsidies between its systems and its users, if this should be necessary to give access to a drinking water and sanitation services to the segments of the population whose ability to pay is insufficient to cover the costs of such provision; however, such subsidy must be removed when these conditions change or when a system of direct State subsidies is implemented.

## UNITED STATES OF AMERICA

**California Public Utilities Code**<sup>530</sup>

### Section 739.8

(a) Access to an adequate supply of healthful water is a basic necessity of human life, and shall be made available to all residents of California at an affordable cost.

(b) The commission shall consider and may implement programs to provide rate relief for low-income ratepayers.

(c) The commission shall consider and may implement programs to assist low-income ratepayers in order to provide appropriate incentives and capabilities to achieve water conservation goals.

(d) In establishing the feasibility of rate relief and conservation incentives for low-income ratepayers, the commission may take into account variations in water needs caused by geography, climate and the ability of communities to support these programs.

## VENEZUELA

**Organic Law on the Provision of Potable Water and Sanitation Services, 31 December 2001 (Unofficial translation)**<sup>531</sup>

### Article 95

The National Superintendence of Drinking Water and Sanitation, supported by technical and economic studies, draw up general rules for subsidies to be applied in accordance with the policy established by the National Office for the Development of Drinking Water and Sanitation in accordance with this Act and its regulations, which must meet the following principles:

- b. be directed to finance the necessary minimum consumption for the average family, according to the provisions of the relevant Regulations;
- c. be explicit and be targeted to poor families;

<sup>529</sup> Spanish original available at: <http://www.ccad.ws/documentos/legislacion/NC/L-297.pdf> (Last visited 15 April 2011)

<sup>530</sup> Available at: <http://codes.lp.findlaw.com/cacode/PUC/1/d1/1/4/2/s739.8> (Last visited 19 April 2011)

<sup>531</sup> Spanish original available at: <http://web.laoriental.com/leyes/L054N/L054nT1Cap0.htm>. (Last visited 18 April 2011)

## **Article 97**

The Executive Branch, states, municipalities and metropolitan districts may apply direct subsidies to pay the fees for subscribers with low abilities to pay.

## **Article 102**

The National Superintendence of Drinking Water and Sanitation will be considered in the Model Tariff rates that are higher than the cost efficient provision of services under this Act, to help financing consumption rates for basic subscribers of proven low capacity to pay established within the same management unit.

## **ARGENTINA**

***Water Code of the Province of Córdoba, Law 5589/73, as amended by Law 8928/01 (Unofficial translation)***<sup>532</sup>

### **Article 99: Compulsory and Irrevocable Concession**

When a concession concerns the reception of water for domestic use, it cannot be waived. Under no circumstances can the services enumerated in the title be suspended for a lack of payment or for any other cause.

## **BRAZIL**

***Law on Basic Sanitation, 2007***<sup>533</sup>

### **Article 40**

§ 3 The interruption or restriction of water supply due to default to health, educational and collective internment institutions and to low income residential users that benefit from social tariffs shall follow terms and criteria that preserve minimum health conditions for the people affected.

## **BRAZIL**

***Consumers Defence Code, Law 8078 of 11 September 1990, as last amended by Law 12.039 of 2009 (Unofficial translation)***<sup>534</sup>

### **Article 42**

In the collecting of debts, the defaulting consumer must not be ridiculed or exposed to shameful situations or threats.

*Article 42 of the Consumer Defence Code is the legal standard on which Brazilian courts have repeatedly based a prohibition of disconnections of water services to consumers who are unable to pay.*

## **2.2.g. Water availability and allocation**

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<sup>532</sup> Spanish original available at:

[http://www.cba.gov.ar/imagenes/fotos/5589%20CODIGO%20DE%20AGUAS\(Actualizado\).pdf](http://www.cba.gov.ar/imagenes/fotos/5589%20CODIGO%20DE%20AGUAS(Actualizado).pdf). (Last visited 19 April 2011) Note that the Law on Basic Sanitation also covers drinking water supply.

<sup>533</sup> Portuguese original and official English version available at: <http://www.cidades.gov.br/secretarias-nacionais/saneamento-ambiental/legislacao/leis/lei-do-saneamento-1/LeisSaneamentoIngles.pdf>. (Last visited 21 April 2011)

<sup>534</sup> Portuguese original available at: <http://www.planalto.gov.br/CCIVIL/Leis/L8078.htm>. (Last visited 21 April 2011)

## **PARAGUAY**

***Law on Water Resources, Law 3239 of 10 July 2007 (Unofficial translation)***<sup>535</sup>

### **Article 16**

Every natural person has the right to access to a minimum quantity of drinking water per day that is sufficient for the satisfaction of their basic needs.

The minimum quantity of water per person per day shall be established by regulation of the Ministry of Public Health and Social Welfare.

## **PERU**

***Water Resources Act, June 2009 (Unofficial translation)***<sup>536</sup>

### **Article 38 Zones of open access to basic water use**

The State guarantees free access to natural sources and public artificial channels, without alteration and preventing contamination, to satisfy directly the primary needs of the population. The National Authority creates where necessary, places or zones for open access.

## **ARGENTINA**

***Water Code of the Province of Córdoba, Law 5589/73, as amended by Law 8928/01 (Unofficial translation)***<sup>537</sup>

### **Article 40: Priority and absence of charges**

Common uses shall have absolute priority over any form of private use and concessions or permits shall in no case limit their exercise. Common uses are free of charge; rates can only be imposed if the provision of a service is required for their exercise.

## **ARGENTINA**

***Water Code of the Province of Buenos Aires, Law 12.257 of 9 December 1998 (Unofficial translation)***<sup>538</sup>

### **Article 2**

The Executive Power is entrusted with: [...]

c) Establishing preferences and privileges for the use of waters belonging to the public domain regarding categories of uses, [...] giving priority to the provision of drinking water [...]

### **Article 27**

In case of competing requests for the use of water that exclude each other, preference is to be given to those that most fulfil the objectives of the programmes referred to in article 2 c) [...]

## **COLOMBIA**

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<sup>535</sup> Spanish original available at: [http://issuu.com/sectorproductivo/docs/ley\\_de\\_recursos\\_h\\_dricos](http://issuu.com/sectorproductivo/docs/ley_de_recursos_h_dricos) (Last visited 21 April 2011)

<sup>536</sup> Spanish original available at: [http://gestion sostenibledelagua.files.wordpress.com/2010/06/leyderecursoshidricos\\_29338.pdf](http://gestion sostenibledelagua.files.wordpress.com/2010/06/leyderecursoshidricos_29338.pdf) (Last visited 20 April 2011)

<sup>537</sup> Spanish original available at: [http://www.cba.gov.ar/imagenes/fotos/5589%20CODIGO%20DE%20AGUAS\(Actualizado\).pdf](http://www.cba.gov.ar/imagenes/fotos/5589%20CODIGO%20DE%20AGUAS(Actualizado).pdf). (Last visited 2011)

<sup>538</sup> Spanish original available at: <http://www.gob.gba.gov.ar/legislacion/legislacion/l-12257.html>. (Last visited 2011)

**Draft Water Law (*Unconfirmed*) ,17 January 2005 (Unofficial translation)<sup>539</sup>**

**Article 2: Principles**

In addition to the general environmental principles laid down in the first article of Law 99 of 1993, the following are general principles that the integral management of water resources must comply with:

**Article 3.2: Priority for human uses**

Water must ensure human survival and therefore its priority use is to satisfy basic human needs in terms of equity.

**Article 19: Priorities in the use of the resource**

Water must, above all, protect human health and life, therefore its principal use is the satisfaction of basic survival needs of the human being.

**COSTA RICA**

***Organic Law on the Environment, Law 7554 of 4 October 1996 (Unofficial Translation)*<sup>540</sup>**

**Article 60: Prevention and control of contamination**

In order to prevent and control the contamination of the environment, the State, the municipalities and other public institutions shall afford priority, among others, to the establishment and operation of adequate services in fundamental areas for environmental health, such as:

- a) The provision of water for human uses.
- b) The sanitary disposal of excreta, wastewater and rainwater

**COSTA RICA**

***General Health Law, Law 5395 of 30 October 1973, as last amended by Law 7600 of 2 May 1996 (Unofficial translation)*<sup>541</sup>**

**Article 264**

Water constitutes a good of common public interest and its utilisation for human uses shall enjoy priority over any other use.

**COSTA RICA**

**Draft Law on Water Resources (*Unconfirmed*), proposal No. 14585, 2005 (Unofficial translation)<sup>542</sup>**

**Article 2: General principles**

[...]

- i) Priority for human uses: Water is a resource that has multiple uses. The use of water for human consumption, in harmony with satisfying the needs of the ecosystem to guarantee the sustainability of the resource, is privileged.
- j) Duty of the State: The State has the inalienable duty to watch over the existence, protection, conservation, universal accessibility, efficient management and the just valuation of water.

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<sup>539</sup> Spanish original available at: [http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Colombia-Proyecto\\_de\\_Ley\\_del\\_Agua\\_\(2005\).pdf](http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Colombia-Proyecto_de_Ley_del_Agua_(2005).pdf). (Last visited 16 May 2011)

<sup>540</sup> Spanish original available at: <http://www.ccad.ws/documentos/legislacion/CR/L-7554.pdf> (Last visited 19 April 2011)

<sup>541</sup> Spanish original available at: <http://www.ccad.ws/documentos/legislacion/CR/L-5395.pdf>. (Last visited 21 April 2011)

<sup>542</sup> Spanish original available at: <http://www.conare.ac.cr/proyectos/14585%20dic.htm>. (Last visited 21 April 2011)  
The draft was approved by the Comisión Permanente Especial de Ambiente on 14/4/2005 and is currently under debate in Parliament. (as of 19 April 2011)

## **Article 50: Prioritised utilisations**

- (1) Uses can be realised for: provision to the population, domestic uses, [...]
- (2) Regional Water Plans, respecting what is established in the National Water Plan, shall define a hierarchical order of priorities for use of the water resources in every hydrographic unit, always prioritising human consumption and respecting the necessities of the ecosystem, [...] For the purpose of the present law, the use of water for bottling and commercialisation shall be considered an industrial use.

## **DOMINICAN REPUBLIC**

***Law No. 64-00, General Law on the Environment and Natural Resources, 2000 (Unofficial translation)***<sup>543</sup>

### **Article 13**

In respect of the utilisation of water resources, human uses shall have priority over any other kind of use.

## **GUYANA**

***Water and Sewerage Act, 2002***<sup>544</sup>

### **Article 25**

The Department shall take into account the following principles when granting, amending or renewing a license –

- a) water for domestic purposes shall take precedence over all other uses; ...
- d) where a shortfall in water resources exists, abstraction for domestic consumption shall be safeguarded and all remaining water users shall receive an equal proportion of their normal entitlement.

## **MEXICO**

***Law on National Waters, 1992, as last amended 29 April 2004 (Unofficial translation)***<sup>545</sup>

### **Article 14 bis 5**

The national water policy shall be based on the following principles: [...]

XXII. Domestic uses and public urban uses shall have preference in relation to any other use.

## **NICARAGUA**

***General law on the environment and natural resources, Law No. 217 of 6 June 1996 (Unofficial translation)***<sup>546</sup>

### **Article 75**

In the utilisation of water, the necessities of human uses and public services shall have priority over other uses.

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<sup>543</sup> Spanish original available at: <http://docs.republica-dominicana.justia.com/nacionales/leyes/ley-64-00.pdf> (Last visited 19 April 2011)

<sup>544</sup> Available at: [http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Guyana-Water\\_and\\_Sewage\\_Act\\_\(2002\).pdf](http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Guyana-Water_and_Sewage_Act_(2002).pdf). (Last visited 18 April 2011)

<sup>545</sup> Original Spanish version available at: [http://www.oas.org/dsd/environmentlaw/waterlaw/documents/M%C3%A9xico-Ley\\_de\\_Aguas\\_Nacionales\\_%282004%29.pdf](http://www.oas.org/dsd/environmentlaw/waterlaw/documents/M%C3%A9xico-Ley_de_Aguas_Nacionales_%282004%29.pdf) (Last visited 20 April 2011)

<sup>546</sup> Spanish original available at: [http://legislacion.asamblea.gob.ni/Normaweb.nsf/%28\\$All%29/1B5EFB1E58D7618A0625711600561572?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/%28$All%29/1B5EFB1E58D7618A0625711600561572?OpenDocument) (Last visited 15 April 2011)



## NICARAGUA

**General Law on National Water Resources, 15 May 2007 (Unofficial translation)**<sup>547</sup>

### Article 13

[...] the present law is based on the following values and principles

[...]

d) Water is a natural resource that must be protected and administrated in a responsible manner. Permanent and continuous access to it constitutes a right inherently linked to life. To provide for its provision for human uses is a maximum national priority.

### Article 66

Water utilised for human uses enjoys the highest and peremptory priority for the Nicaraguan State; it cannot be suspended or made dependent on any other use.

## PANAMA

**Law governing the Use of Water, Law 35 of 22 September 1966 (Unofficial translation)**<sup>548</sup>

### Article 1

The exploitation of the waters of the State shall be regulated for its utilisation in accordance with the social interest. Therefore, the objective of the utilisation, conservation and administration of the same is to achieve the maximum public well-being.

For similar provisions, see also:

Brazil, Law 9433 (National Water Resource Management Act), 1997, articles 1 and 2;<sup>549</sup>

El Salvador, Irrigation and Drainage Law, Law No. 153, 1970, article 4;<sup>550</sup>

Honduras, Decree No. 118-2003, Framework Law for the Drinking Water and Sanitation Sector, articles 3 and 4;<sup>551</sup>

Paraguay, Law on Water Resources, Law 3239, 2007, articles 3 and 18.<sup>552</sup>

## PERU

**Water Resources Act, June 2009 (Unofficial translation)**<sup>553</sup>

<sup>547</sup> Spanish original available at:

[http://legislacion.asamblea.gob.ni/Normaweb.nsf/\(\\$All\)/C0C1931F74480A55062573760075BD4B?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/($All)/C0C1931F74480A55062573760075BD4B?OpenDocument). (Last visited 15 April 2011)

<sup>548</sup> Spanish original available at [http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Panama-Ley\\_sobre\\_el\\_uso\\_de\\_las\\_Aguas\\_\(1966\).pdf](http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Panama-Ley_sobre_el_uso_de_las_Aguas_(1966).pdf). (Last visited 19 April 2011)

<sup>549</sup> Portuguese original available at: <http://www.aneel.gov.br/cedoc/blei19979433.pdf>. (Last visited 21 April 2011)

<sup>550</sup> Spanish original at:

<http://www.csj.gob.sv/leyes.nsf/b259ae89c8311d2686256d48006f4bd1/90e83287eb28f8f60625644f00688c93?OpenDocument> (Last visited 21 April 2011)

<sup>551</sup> Spanish original available at: <http://faolex.fao.org/docs/pdf/hon41347.pdf>. (Last visited 20 April 2011)

<sup>552</sup> Spanish original available at: [http://issuu.com/sectorproductivo/docs/ley\\_de\\_recursos\\_hidricos](http://issuu.com/sectorproductivo/docs/ley_de_recursos_hidricos) (Last visited 21 April 2011)

<sup>553</sup> Spanish original available at:

[http://gestion sostenible del agua.files.wordpress.com/2010/06/leyderecursos hidricos\\_29338.pdf](http://gestion sostenible del agua.files.wordpress.com/2010/06/leyderecursos hidricos_29338.pdf) (Last visited 20 April 2011)

### **Article 35 Types of water use and prioritization**

The law recognizes the following types of water use:

1. Primary use.
2. Using population.
3. Productive use.

The priority for the granting and exercise of the uses previously noted follow the order in which they were enumerated.

### **Article 36 Primary use of water**

The primary use of water consists of its direct and effective utilization in natural sources and public channels with the aim of amply satisfying the basic human needs. It includes the use of water for the preparation of food, direct consumption, and personal hygiene as well as its use in cultural ceremonies, and religious rituals.

## **COSTA RICA**

***General Health Law, Law 5395 of 30 October 1973, as last amended by Law 7600 of 2 May 1996 (Unofficial translation)***<sup>554</sup>

### **Article 267**

Every water supply system destined for use and consumption by the population must deliver drinking water, in a continuous manner, in sufficient quantity to satisfy the needs of the population and with the pressure necessary to allow for the appropriate functioning of the used sanitary devices.

## **GUYANA**

***Water and Sewerage Act, 2002***<sup>555</sup>

### **Article 25**

The Department shall take into account the following principles when granting, amending or renewing a license –

- a) water for domestic purposes shall take precedence over all other uses; [...]
- d) where a shortfall in water resources exists, abstraction for domestic consumption shall be safeguarded and all remaining water users shall receive an equal proportion of their normal entitlement.

## **VENEZUELA**

***Water Law, 2 January 2007 (Unofficial translation)***<sup>556</sup>

### **Article 5**

The principles governing the integral management of water resources, based on the recognition of the full sovereignty the Republic exercises over water, are the following:

[...]

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<sup>554</sup> Spanish original available at: <http://www.ccad.ws/documentos/legislacion/CR/L-5395.pdf>. (Last visited 20 April 2011)

<sup>555</sup> Available at: [http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Guyana-Water\\_and\\_Sewage\\_Act\\_\(2002\).pdf](http://www.oas.org/dsd/environmentlaw/waterlaw/documents/Guyana-Water_and_Sewage_Act_(2002).pdf). (Last visited 18 April 2011)

<sup>556</sup> Spanish original available at: <http://faolex.fao.org/docs/texts/ven69647.doc>. (Last visited 18 April 2011)

6. The use and utilisation of water resources must be efficient, equitable, optimal and sustainable.

7. Users of water shall contribute in solidarity to the conservation of the water source to guarantee the sustainability of the quantity and quality of the waters.

8. It is the fundamental obligation of the state, together with the active participation of the society as a whole, to guarantee the conservation of the water sources, both at the surface and underground.

[...]

11. The conservation of water, in all of its sources and physical states, has a priority over any other economic or social interest.

## **2.2.h. Water quality and hygiene**

### **BRAZIL**

***Law on Basic Sanitation, 2007***<sup>557</sup>

#### **Article 43**

Service delivery shall comply with minimum quality standards, including regularity, continuity and those associated to the products offered, to [customer] service and conditions for system operation and maintenance, according to regulatory and contractual rules. The Union shall define minimum standards for the potability of the water.

### **COSTA RICA**

***General Health Law, Law 5395 of 30 October 1973, as last amended by Law 7600 of 2 May 1996 (Unofficial translation)***<sup>558</sup>

#### **Article 265**

Drinking water shall mean, in terms of laws and regulations, water that has all the physical, chemical and biological characteristics that makes it adequate for human consumption, [...]

### **GUATEMALA**

***New Health Code, Decreto 90-97 (Unofficial translation)***<sup>559</sup>

#### **Article 88: The certificate of quality**

All projects for the supply of water, prior to its execution, shall have a certificate extended in an appropriate manner by the Ministry of Health which shall entail that the water is suitable for human consumption. If the certificate is not renewed in the time/period established in the corresponding regulations, it will be extended upon the responsibility of whoever will grant it to a functionary or employee that has not expressed an opinion in the stipulated period.

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<sup>557</sup> Portuguese original and official English version available at: <http://www.cidades.gov.br/secretarias-nacionais/saneamento-ambiental/legislacao/leis/lei-do-saneamento-1/LeisSaneamentoIngles.pdf>. (Last visited 21 April 2011) Note that the Law on Basic Sanitation also covers drinking water supply.

<sup>558</sup> Spanish original available at:

<http://www.edeca.una.ac.cr/files/izuniga/EIA/LEY%20GENERAL%20DE%20SALUD%205395.pdf> (Last visited 20 April 2011)

<sup>559</sup> Original Spanish version at: <http://www.ccad.ws/documentos/legislacion/GT/DL-90-97.pdf>. (Last visited 19 April 2011)

## PARAGUAY

**Decree 18880 of 2003: Further regulating issues covered by Law 1614 of 2000 (Unofficial translation)**<sup>560</sup>

### **Article 62: Quality of Water Resources**

The licensee has the obligation to report every two months to the Ministry of Environment or the government organisation that is responsible for the preservation of water resources as well as ERSSAN, about the anomalies detected on the quality of either untreated groundwater or collected subterranean water, and also with respect to effluent dumped directly or indirectly into the water system. The licensee shall also propose decisions and/or actions which concern the Paraguayan government in order to normalise the situation without damage to the corrective or preventative obligations that would have been contracted.

The Regulations for Service Quality shall specify the characteristics of a monitoring system that the licensee shall adopt, as well as the technical criteria and frequency that enables the qualification of an anomaly.

Anomalies consist of defects in quality with respect to the regulations in effect.

It shall be the responsibility of the licensee to take immediate corrective measures:

a) That prevent that the contamination in the collection of water from affecting the productive process of potable water and from being transferred to the networks of transport and distribution.

b) That detect and prevent, in the networks of the concession or of regular or secret users, domestic or industrial spills that could cause some abnormality in water quality.

(5) The person entitled to the service and ERSSAN will have the obligation of helping providers realise the actions listed above.

For similar provisions, *see also*:

El Salvador, *Health Code, Decree No. 955* of 1988, as last amended 2008, article 63<sup>561</sup>

Nicaragua, General law on drinking water and sanitation services, Law No. 297, 1998, article 52;<sup>562</sup>

Panama, Law for the reorganisation and modernisation of the Institute of National Aqueducts and Sewerages, Law No. 77, 2001, article 46.<sup>563</sup>

## COLOMBIA

**Law 142 of 11 July 1994, establishing the regime for public household services (Unofficial translation)**<sup>564</sup>

### **Article 136: The concept of a defect in the provision of the service**

The continuous provision of a service of good quality is the company's main obligation in a public service contract.

<sup>560</sup> Spanish original available at: <http://faolex.fao.org/docs/texts/par47939.doc>. (Last visited 21 April 2011)

<sup>561</sup> Spanish original at: [http://asp.mspas.gob.sv/regulacion/pdf/ley/codigo\\_de\\_salud.pdf](http://asp.mspas.gob.sv/regulacion/pdf/ley/codigo_de_salud.pdf) (Last visited 21 April 2011)

<sup>562</sup> Spanish original at: <http://www.ccad.ws/documentos/legislacion/NC/L-297.pdf> (Last visited 21 April 2011)

<sup>563</sup> Spanish original available at: <http://www.idaan.gob.pa/PDF/leyes/ley77.pdf> (Last visited 19 April 2011)

<sup>564</sup> Spanish original available at: <http://www.aguasdemanizales.com.co/LinkClick.aspx?fileticket=Ty3iKjUsguo%3D&tabid=652> (Last visited 18 April 2011)

The non-fulfilment on the part of the company of the continuous provision of service is designated, for the purposes of this law, as a defect in the provision of the service.

**Article 137: The repairs of defects in the provision of service**

A failure in service, from the moment in which it presents itself, entitles the subscriber or user to the cancellation of the contract, or to its fulfilment with the following reparations:

137.1. - There are no charges for anything other than what was consumed or for the use of goods or services effectively received, if the defect occurs continuously during the term of fifteen (15) days or more within the same billing period. [...]

137.3 - With respect to the compensation for damages, under no circumstance shall it be valued at less than the value of consumption from the day in which the user was affected and for each day in which the service has completely faltered, or in proportion to the duration of the failure; including the value of the fines, sanctions, or surcharge that the defect has caused the subscriber or user to incur; including, also, the value of the investments or expenses incurred by the subscriber or user in trying to make up for the service.

**COLOMBIA**

***National Code on Renewable Natural Resources and Protection of the Environment, Decree 2811, 18 December 1974 (Unofficial translation)***<sup>565</sup>

**Article 134**

It is the State's responsibility to guarantee the quality of water for human uses and, in general, for other activities in which its use is necessary. [...]

**COSTA RICA**

***Law on the Regulating Authority for Public Services, Law 7593 of 9 August 1996, as amended 27 December 2002 (Unofficial translation)***<sup>566</sup>

**Article 14: Obligations of the service providers**

The service providers are obliged to: [...]

j) Provide the service in an adequate manner and with the regularity and security indicated by its nature, the license or the permit.

**PARAGUAY**

***General law governing the regulatory and tariff framework for the public drinking water and sanitation services for the Republic of Paraguay, Law 1614 of 2000 (Unofficial translation)***<sup>567</sup>

**Article 2: Service**

The regulated service entails:

The provision of drinking water: [...]

Sanitation services: [...]

**Article 3: Essential conditions for the service**

The service defined in the terms of article 2 is declared a national public service within the ambit established in the Constitution and shall be provided in a way that

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<sup>565</sup> Spanish original available at: [http://www.oas.org/dsd/FIDA/laws/legislation/colombia/colombia\\_codigo.pdf](http://www.oas.org/dsd/FIDA/laws/legislation/colombia/colombia_codigo.pdf). (Last visited 18 April 2011)

<sup>566</sup> Spanish original available at: [http://www.aresp.go.cr/docs/01-2003-ML\\_Ley\\_%20Autoridad\\_Regul.pdf](http://www.aresp.go.cr/docs/01-2003-ML_Ley_%20Autoridad_Regul.pdf). (Last visited 20 April 2011)

<sup>567</sup> Spanish original available at: <http://www.erssan.gov.py/Ley%201614-2000/Ley%20Nro.%201614.pdf>. (Last visited 21 April 2011)

the conditions of continuity, regularity, quality, generality and equality are met and that their efficient provision to the users, the protection of public health and the environment and the rational utilization of the resources is safeguarded.

## **ARGENTINA**

***Water Code of the Province of Buenos Aires, Law 12.257 of 9 December 1998 (Unofficial translation)***<sup>568</sup>

### **Article 58**

[...]The Water Authority may require the licensee to use or apply all the methods judged necessary to ensure the established quality.

The Water Authority shall also guarantee the removal and ultimate disposal of wastewater in a manner that does not produce contamination or cause damage to third parties.

## **MEXICO**

***Water Law of the Distrito Federal, 2003 (Unofficial translation)***<sup>569</sup>

### **Article 41**

With the aim of preventing the pollution of water, the Water System, in addition to considering the resolutions contained in the Environmental Law, shall: [...]

I. Promote, and, where appropriate, implement and operate the infrastructure and the services necessary for the prevention and control of contamination and the improvement of water quality in the Distrito Federal;

II. Develop integral programmes for the protection of water resources, considering existing relations between land uses and water quantity and quality;

III. Monitor, in coordination with the other relevant authorities, that water provided for human consumption complies with the corresponding norms for its quality, and that the use of residual waters, which under no circumstance can be set aside for human consumption, comport with norms for water quality established for such effect; [...]

IV. Promote and execute the necessary measures to prevent solid waste and toxic materials and substances contaminating surface or groundwater sources; [...]

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<sup>568</sup> Spanish original available at: <http://www.gob.gba.gov.ar/legislacion/legislacion/l-12257.html>. (Last visited 19 April 2011)

<sup>569</sup> Spanish original at: [http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes\\_equidad/local/03\\_ley\\_aguas.pdf](http://www.sma.df.gob.mx/sma/links/download/biblioteca/leyes_equidad/local/03_ley_aguas.pdf) (Last visited 20 April 2011)

### 3. Asia and Pacific

#### 3.1. Constitutional standards – Asia-Pacific

##### *3.1.a. Recognition of the right to safe drinking water and sanitation*

###### **Explicit recognition**

###### **MALDIVES**

###### ***Constitution of the Republic of the Maldives, 2008***<sup>570</sup>

23. Every citizen [has] the following rights pursuant to this Constitution, and the State undertakes to achieve the progressive realisation of these rights by reasonable measures within its ability and resources:

(a) adequate and nutritious food and clean water;

[...]

(f) the establishment of a sewage system of a reasonably adequate standard on every inhabited island;

[...]

###### **SOLOMON ISLANDS**

###### ***Draft Federal Constitution of Solomon Islands 2004, last amended 2009***<sup>571</sup>

###### **Article 46: Basic necessities of life**

Every person has the right of access to the basic necessities of life, including water, food, shelter and security

###### **Implicit recognition**

###### **INDONESIA**

###### ***Indonesian Constitution, 1945, as last amended 2002***<sup>572</sup>

###### **Article 33**

1. The economy shall be organized as a common endeavor based on the principle of the family system.

2. Branches of production which are important for the state and which affect the lives of most people shall be controlled by the state.

3. Land and water, and the natural resources found therein, shall be controlled by the state and shall be exploited for the maximum benefit of the people.

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<sup>570</sup> Available at: <http://www.maldivesinfo.gov.mv/home/upload/downloads/Compilation.pdf> (Last visited 31 May 2011).

<sup>571</sup> Available at: [http://www.politicsresources.net/docs/draft\\_solomon\\_const.pdf](http://www.politicsresources.net/docs/draft_solomon_const.pdf) (Last visited 26 April 2011) Latest amendment of 2009 available at: [http://www.parliament.gov.sb/files/legislation/Acts/Constitution\\_%28Amendment%29\\_Act%202009.pdf](http://www.parliament.gov.sb/files/legislation/Acts/Constitution_%28Amendment%29_Act%202009.pdf) (Last visited 27 April 2011)

<sup>572</sup> Available at: <http://www.embassyofindonesia.org/about/pdf/IndonesianConstitution.pdf> (Last visited 26 April, 2011).

## **IRAN**

***Constitution of the Islamic Republic of Iran, 1979***<sup>573</sup>

### **Article 43**

The economy of the Islamic Republic of Iran, with its objectives of achieving the economic independence of the society, uprooting poverty and deprivation, and fulfilling human needs in the process of development while preserving human liberty, is based on the following criteria:

1. the provision of basic necessities for all citizens: housing, food, clothing, hygiene, medical treatment, education, and the necessary facilities for the establishment of a family;

[...]

### **Article 45**

Public wealth and property, such as ... lakes, rivers and other public waterways, [...] forests, [...] shall be at the disposal of the Islamic government for it to utilize in accordance with the public interest. Law will specify detailed procedures for the utilization of each of the foregoing items.

## **NEPAL**

***Interim Constitution of Nepal 2063, 2007***<sup>574</sup>

### **Article 33: Responsibilities of the State**

The State shall have the follows responsibilities:

[...]

(o) To use existing natural resources including water resources of the country for the interest of the nation.

## **PAKISTAN**

***Constitution of the Islamic Republic of Pakistan, 14 August 1973, (as amended in 2007 by Constitution Order of 14 December 2007)***<sup>575</sup>

### **Article 38: Promotion of social and economic well-being of the people**

The State shall:

[...]

(d) provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment;

[...]

### ***3.1.b. Non-discrimination and attention to vulnerable and marginalized groups***

## **JAPAN**

***Constitution of Japan, 1946, as amended***<sup>576</sup>

### **Article 14**

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<sup>573</sup> Available at: [http://www.iranchamber.com/government/laws/constitution\\_ch04.php](http://www.iranchamber.com/government/laws/constitution_ch04.php) (Last visited 26 April 2011).

<sup>574</sup> Available at: [http://www.worldstatesmen.org/Nepal\\_Interim\\_Constitution2007.pdf](http://www.worldstatesmen.org/Nepal_Interim_Constitution2007.pdf) (Last visited 27 April 2011).

<sup>575</sup> Available at: <http://www.pakistani.org/pakistan/constitution/part2.ch2.html> (Last visited 26 April 2011)

<sup>576</sup> Available at: [http://www.kantei.go.jp/foreign/constitution\\_and\\_government\\_of\\_japan/constitution\\_e.html](http://www.kantei.go.jp/foreign/constitution_and_government_of_japan/constitution_e.html) (Last visited 31 May 2011).



All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin.

[...]

## **SOLOMON ISLANDS**

***Draft Federal Constitution of Solomon Islands 2004, last amended 2009***<sup>577</sup>

### **Article 14: Right of ownership and control of customary land and resources**

1. The right of indigenous Solomon Islanders to own, develop, control and use their customary lands including the total environment of their lands, air, waters, coastal areas, minerals and other resources which they customarily own or otherwise occupy or use may not be abrogated without their consent or by other lawful process specifically authorised by statute and subject to this Constitution. [...]

[...]

### **Article 15: Right to control development of customary lands and resources**

1. Indigenous Solomon Islanders have the right to decide their own priorities for the development, use or exploitation of their customary lands and resources as it affects their lives, beliefs, institutions and spiritual well-being.

2. Every development of customary land or exploitation of resources must have the customary land and resource owners free and informed consent prior to the approval or implementation of any project affecting their lands and other resources, particularly in connection with the development, utilisation or exploitation of forests, minerals, water and other natural resources.

### **3.1.d. Accountability**

## **PAKISTAN**

***Constitution of the Islamic Republic of Pakistan, 14 August 1973, (as amended in 2007 by Constitution Order of 14 Dec.2007)***<sup>578</sup>

### **Article 155: Complaints as to interference with water supplies**

1. If the interests of a Province, the Federal Capital or the Federally Administered Tribal Areas, or any of the inhabitants thereof, in water from any natural source of supply have been or are likely to be affected prejudicially by-

(a) any executive act or legislation taken or passed or proposed to be taken or passed, or

(b) the failure of any authority to exercise any of its powers with respect to the use and distribution or control of water from that source,

the Federal Government or the Provincial Government concerned may make a complaint in writing to the Council.

[...]

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<sup>577</sup> Available at: [http://www.politicsresources.net/docs/draft\\_solomon\\_const.pdf](http://www.politicsresources.net/docs/draft_solomon_const.pdf) (Last visited 26 April 2011) Latest amendment of 2009 available at:

[http://www.parliament.gov.sb/files/legislation/Acts/Constitution\\_%28Amendment%29\\_Act%202009.pdf](http://www.parliament.gov.sb/files/legislation/Acts/Constitution_%28Amendment%29_Act%202009.pdf) (Last visited 27 April 2011)

<sup>578</sup> Available at: <http://www.pakistani.org/pakistan/constitution/part5.ch3.html> (Last visited 31 May 2011).

## **3.2. National laws and policies – Asia-Pacific**

### ***3.2.a. Recognition of the right to safe drinking water and sanitation***

#### **Explicit recognition**

##### **BANGLADESH**

###### ***National Water Policy, 1999***<sup>579</sup>

###### **Preface**

Availability of water, in both quantitative and qualitative terms, is a basic human right and sound planning is necessary to ensure it.

###### **1. Introduction**

Its availability for sustenance of life, in both quantitative and qualitative terms, is a basic human right and mandates its appropriate use without jeopardising the interest of any member of the society.

Note that there is also a Draft Water Act of 2009<sup>580</sup>

##### **BANGLADESH**

###### ***National Sanitation Strategy, March 2005***<sup>581</sup>

###### **4. Guiding Principles**

Sanitation is a human right

The international acceptance that health and access to water are human rights clearly implies that access to sanitation should also be considered as a human right. The national government is therefore obliged to progressively ensure access to basic sanitation equitably and without discrimination.

##### **CAMBODIA**

###### ***Law on Water Resources Management of the Kingdom of Cambodia, June 2007***<sup>582</sup>

###### **Article 11**

Every person has the right to use water resources for his/her vital human need including drinking, washing, bathing and other domestic purposes including watering for animal husbandry, fishing and the irrigation of domestic gardens and orchards, in a manner that will not affect other legal right of others. amount not exceeding that necessary to

The fore-mentioned uses are not subject to the licensing.

##### **PAKISTAN**

###### ***National Sanitation Policy, September 2006***<sup>583</sup>

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<sup>579</sup> Available at: [http://www.warpo.gov.bd/nw\\_policy.pdf](http://www.warpo.gov.bd/nw_policy.pdf). (Last visited 26 April 2011)

<sup>580</sup> Available at: <http://www.warpo.gov.bd/RETA/Draft%20BWA.pdf> (Last visited 26 April 2011)

<sup>581</sup> Available at: [http://www.sanitation-bd.org/downloads/MR11\\_SanitationStrategy.pdf](http://www.sanitation-bd.org/downloads/MR11_SanitationStrategy.pdf). (Last visited 26 April 2011)

<sup>582</sup> Available at [http://faolex.fao.org/cgi-](http://faolex.fao.org/cgi-bin/faolex.exe?database=faolex&search_type=query&table=result&query=LEX-FAOC075723&format_name=@ERALL&lang=eng)

[bin/faolex.exe?database=faolex&search\\_type=query&table=result&query=LEX-](http://faolex.fao.org/cgi-bin/faolex.exe?database=faolex&search_type=query&table=result&query=LEX-FAOC075723&format_name=@ERALL&lang=eng)

[FAOC075723&format\\_name=@ERALL&lang=eng](http://faolex.fao.org/cgi-bin/faolex.exe?database=faolex&search_type=query&table=result&query=LEX-FAOC075723&format_name=@ERALL&lang=eng) (Last visited 29 April 2011)

<sup>583</sup> Available at: <http://moenv.gov.pk/> (Last visited 26 April 2011)

#### **4. Principles of Policy**

The underlining principles of the policy are;

To promote health and hygiene, a fundamental human right which cannot be achieved without proper and safe sanitation.

#### **INDIA**

***National Rural Drinking Water Programme Guidelines, 2009***<sup>584</sup>

##### **Section 2: Basic Principles**

Water is a public good and every person has the right to demand drinking water.

#### **NEPAL**

***National Urban Water Supply and Sanitation Sector Policy, draft of February 2009***<sup>585</sup>

##### **1.0 Background**

[...] the Government of Nepal remains fully committed to the provision of safe drinking water and sanitation services for all of its citizens as a fundamental human need and a basic human right.

#### **PAKISTAN**

***National Drinking Water Policy, September 2009***<sup>586</sup>

##### **1. Preamble**

The Government of Pakistan, while recognizing that access to safe drinking water is the basic human right of every citizen and that it is the responsibility of the state to ensure its provision to all citizens, is committed to provision of adequate quantity of safe drinking water to the entire population at an affordable cost and in an equitable, efficient and sustainable manner.

##### **4. Policy Principles**

The key policy principles that will be pursued for implementation of the Policy are as follows:

(i) Access to safe drinking water is the basic human right of every citizen and that it is the responsibility of the state to ensure its provision to all citizens; [...]

#### **SRI LANKA**

***National Policy on Water Supply and Sanitation (WSS Policy), 2002***<sup>587</sup>

##### **1.0 – Introduction**

Providing safe drinking water and access to sanitation services is an essential or fundamental element of the Government's program for the economic and social development of Sri Lanka.

#### **SRI LANKA**

***National Policy on Drinking Water, 2007***<sup>588</sup>

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<sup>584</sup> Available at: [http://www.ddws.nic.in/popups/RuralDrinkingWater\\_2ndApril.pdf](http://www.ddws.nic.in/popups/RuralDrinkingWater_2ndApril.pdf). (Last visited 27 April 2011)

<sup>585</sup> Available at: [http://www.ngoforum.net/index.php?option=com\\_docman&task=doc\\_view&gid=30](http://www.ngoforum.net/index.php?option=com_docman&task=doc_view&gid=30) (Last visited 27 April 2011)

<sup>586</sup> Available at: <http://www.environment.gov.pk/NEP/DWPolicyOct2009.pdf> (Last visited 26 April 2011)

<sup>587</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 27 April 2011)

<sup>588</sup> Available at: [http://www.waterboard.lk/Scripts/htm/Publications/Drinking\\_Water\\_Policy.pdf](http://www.waterboard.lk/Scripts/htm/Publications/Drinking_Water_Policy.pdf) (Last visited 13 February 2012)

## **Drinking Water**

Safe water, suitable for human consumption is a scarce and a limited resource which is under threat of pollution, contamination and waste. This ever dwindling resource is indispensable for sustenance of life on the planet and in particular the well being of humans. Safe drinking water is considered a key factor contributing towards overall economic and social development of a country. Accordingly access to safe drinking water is considered as an inalienable right of the people.

### **1.5 Principles of the Policy**

The Policy is based on following underlined principles.

- i. Access to safe drinking water is a basic human right with commensurate responsibilities on the recipients.

## **SRI LANKA**

*The Rural Water Supply and Sanitation Policy (RWSS Policy), 2001*<sup>589</sup>

### **4.1 - Government**

The primary role shall be to:

- a) Ensure all citizens have access to potable water and sanitation facilities. [...]

### **3.3 - Basic Sanitation**

The Government of Sri Lanka promotes all activities leading to provision of access to basic sanitation to all citizen[s].

## **Implicit recognition**

## **INDONESIA**

*National Development Policy and Strategy of Drinking Water Supply System (KNSP-SPAM), Regulation of the Minister of Public Works No. 20/PRT/M/2006, September 2006*<sup>590</sup>

### **Considering:**

- a. that drinking water constitutes basic need badly needed for sustainable human life in the framework of enhancing the health quality of people;
- b. that in order to meet the basic need, a drinking-water supply system having good quality, being healthy, efficient and effective, integrated with other sectors, mainly the sanitation sector is needed so that the people can live healthy and productively;

## **VIETNAM**

*The Law on Water Resource (No.8/1998/QH10 of May 20, 1998)*<sup>591</sup>

### **Preface**

Water is a natural resource of special importance, the essential component of life and the environment, deciding the existence and sustainable development of the country;

### **3.2.b. Non-discrimination and attention to vulnerable and marginalised groups**

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<sup>589</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 27 April 2011)

<sup>590</sup> Available at: <http://faolex.fao.org/docs/pdf/ins69751.pdf> (Last visited 28 April 2011)

<sup>591</sup> Available at: <http://faolex.fao.org/docs/pdf/vie14294.pdf> (Last visited 29 April 2011)

## AUSTRALIA

***Water Act 2000, Last amended 8 April 2011***<sup>592</sup>

### **Chapter 2 Allocation and sustainable Management**

(1) The purpose of this chapter is to advance sustainable management and efficient use of water and other resources by establishing a system for the planning, allocation and use of water.

(2) For subsection (1), ***sustainable management*** is management that—

(c) contributes to the following—

(v) recognising the interests of Aboriginal people and Torres Strait Islanders and their connection with the landscape in water planning;

(vi) providing for the fair, orderly and efficient allocation of water to meet community needs;

## BANGLADESH

***Draft Water Act, 2009***<sup>593</sup>

### **74. Procedure to establish water user association**

1) The government may determine procedures from time to time to establish water user associations, and revise these procedures for equitable, efficient and participatory water resource management including by ensuring the adequate representation of women, landless, share croppers and other vulnerable groups in the association.

### **75. Functions of the Associations:**

The broad tasks and responsibilities of the Association will, among other things, include the followings:

(a) Stakeholders' interactive activities through preliminary discussions, meetings, motivations etc.

(b) Formally represent the beneficiaries and project affected persons including female in all issues relating to water management

(c) Participate in all stage of project cycle

(h) Work with implementing agencies, NGOs, Community level self-help groups and LGIs including in arranging relevant extension, training and other service for various stakeholder groups. In doing so, the Association will ensure equitable access and participation of female and male in all the services and activities.

## SRI LANKA

***The Rural Water Supply and Sanitation Policy (RWSS Policy), 2001***<sup>594</sup>

### **2.0 - Principles of the Policy**

[...]

XI. Women should play a central role in decision making process of the sector.

## SRI LANKA

***National Water Supply & Drainage Board Corporate Plan 2007-2011***<sup>595</sup>

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<sup>592</sup> Available at: <http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/W/WaterA00.pdf> (Last visited 28 April 2011)

<sup>593</sup> Available at: <http://www.warpo.gov.bd/RETA/Draft%20BWA.pdf> (Last visited 26 April 2011)

<sup>594</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 27 April 2011)

## Goal 7 Provide facilities and service support to rural and marginalized communities

The Government and donor agencies provide financial assistance through the NWSDB for the construction of groundwater wells installed with hand pumps and for the provision of community based water supply and sanitation facilities for the benefit of rural communities. NWSDB, being the most experienced organization in the water supply and sanitation sector, shall provide facilities and services to other organizations dealing with the provision of water supply and sanitation services to rural communities. Sanitation, Health Education and Schools awareness programmes are done in consultation with the Ministry of Health.

### BANGLADESH

***National Policy for Safe Water Supply and Sanitation (Local Government Division Ministry of L.G.R.D & Co-operatives), 1998***<sup>596</sup>

#### **4. - Strategy**

The strategy of the National Drinking Water Supply and Sanitation Policy will be developed on the following principles:

[...]

e) Assigning priority to under-served and un-served areas; [...]

#### **7. Policy Principles**

Basic needs – It is necessary to expand and improve the water supply and sanitation services in order to satisfy the basic needs of the people. The need to expand these facilities is greater in the case of under privileged groups and regions. [...]

*Note that there is also a National Sanitation Strategy of March 2005.*<sup>597</sup>

### PAKISTAN

***National Drinking Water Policy, September 2009***<sup>598</sup>

#### **6.1 Increasing Access**

(i) New drinking water supply systems will be established and existing systems will be rehabilitated and upgraded in urban as well as rural areas to ensure sustainable access (as defined under Section 2 of the Policy) of safe drinking water to the entire population of Pakistan. [...]

(ii) With regard to enhancing the access to safe drinking water, priority will be accorded to un-served and under-served areas, both urban and rural, including *Katchi Abadis* and slums, disadvantaged areas, brackish water zones and those areas where there is shortage of sweet water in underground aquifers;

### PAKISTAN

***National Drinking Water Policy, September 2009***<sup>599</sup>

#### **4. Policy Principles**

The key policy principles that will be pursued for implementation of the Policy are as follows: [...]

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<sup>595</sup> Available at: <http://www.waterboard.lk/Scripts/htm/Publications/Corporate%20Plan%202007%20-%202011.pdf> (Last visited 28 April 2011)

<sup>596</sup> Available at:

[http://www.sdnpsd.org/sdi/international\\_days/wed/2006/bangladesh/documents/national\\_pol\\_safe\\_drinking\\_water\\_sanitation1998.pdf](http://www.sdnpsd.org/sdi/international_days/wed/2006/bangladesh/documents/national_pol_safe_drinking_water_sanitation1998.pdf). (Last visited 26 April 2011)

<sup>597</sup> Available at: [http://www.sanitation-bd.org/downloads/MR11\\_SanitationStrategy.pdf](http://www.sanitation-bd.org/downloads/MR11_SanitationStrategy.pdf). (Last visited 26 April 2011)

<sup>598</sup> Available at: <http://www.environment.gov.pk/NEP/DWPolicyOct2009.pdf> (Last visited 26 April 2011)

<sup>599</sup> Available at: <http://www.environment.gov.pk/NEP/DWPolicyOct2009.pdf> (Last visited 26 April 2011)

(iii) In order to ensure equitable access, special attention will be given to removing the existing disparities in coverage of safe drinking and for addressing the needs of the poor and vulnerable; [...]

## **PAKISTAN**

### ***National Sanitation Policy, September 2006***<sup>600</sup>

#### **4. Principles of Policy**

The underlining principles of the policy are;

iii.) The needs of women, children and the handicapped are given priority in all policy, planning and implementation processes.

v.) The provision and distribution of sanitation facilities and resources should be equitable between the rich and poor sections of human settlements. Preference shall, however, be given to those areas where the environmental and social impact shall be the maximum.

vi.) Technical designs will be area specific and compatible to the culture and traditions of the communities.

## **BANGLADESH**

### ***National Water Policy, 1999***<sup>601</sup>

#### **3. - Objectives of National Water Policy**

[...]

b. To ensure the availability of water to all elements of the society including the poor and the underprivileged, and to take into account the particular needs of women and children

Note that there is also a Draft Water Act of 2009<sup>602</sup>

## **PAKISTAN**

### ***National Drinking Water Policy, September 2009***<sup>603</sup>

#### **4. Policy Principles**

[...]

(iv) Recognizing the fact that women are the main providers of domestic waters supply and maintainers of hygienic home environment, their participation in planning, implementation, monitoring and operation and maintenance of water supply systems will be ensured; [...]

#### **6.5 Community Participation and Empowerment**

(i) Participation communities, especially women and children, in planning, implementation, monitoring and operations and maintenance of water supply systems will be encouraged to promote community ownership and empowerment as well as sustainability;

(iii) Community mobilization units will be established in water supply related institutions;

(iv) Special focus will be placed on gender training programs for the staff of water supply related institutions at all levels so that they are able to respond in a sensitive manner to the gender differentiated needs in the drinking water sector;

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<sup>600</sup> Available at: <http://moenv.gov.pk/> (Last visited 26 April 2011)

<sup>601</sup> Available at: [http://www.warpo.gov.bd/nw\\_policy.pdf](http://www.warpo.gov.bd/nw_policy.pdf). (Last visited 26 April 2011)

<sup>602</sup> Available at: <http://www.warpo.gov.bd/RETA/Draft%20BWA.pdf> (Last visited 26 April 2011)

<sup>603</sup> Available at: <http://www.environment.gov.pk/NEP/DWPolicyOct2009.pdf> (Last visited 26 April 2011)

### **3.2.c. Participation and access to information**

#### **AUSTRALIA**

***Water Act 2000, Last amended 8 April 2011***<sup>604</sup>

##### **Chapter 2 Allocation and sustainable Management**

(1) The purpose of this chapter is to advance sustainable management and efficient use of water and other resources by establishing a system for the planning, allocation and use of water.

(2) For subsection (1), **sustainable management** is management that—

(c) contributes to the following—

(vii) increasing community understanding of the need to use and manage water in a sustainable and cost efficient way;

(viii) encouraging the community to take an active part in planning the allocation and management of water;

#### **INDIA**

***National Rural Drinking Water Programme Guidelines, 2009***<sup>605</sup>

##### **Section 12.1: Institutional Set Up**

- Water is a socio-economic good and demand for basic drinking water needs is a fundamental right. Involvement of the community at the individual household level in the decision making process about its usage is therefore a necessity for ensuring sustainability of the system at the village level.

#### **INDONESIA**

***Government Regulation No. 82 of 2001 /NA concerning Water Quality Management and Water Pollution Control***<sup>606</sup>

##### **Article 30**

(1) Everyone is entitled to good water quality.

(2) Everyone is entitled to access to information about the state of the water quality, water quality management, and water pollution control.

##### **Article 33**

The Government, Provincial Government and Regency / Municipal Government are required to provide information to the public about water quality management and water pollution control.

#### **INDONESIA**

***Law No. 7/2004 on Water Resources, promulgated 8 March 2004***<sup>607</sup>

##### **Article 82**

In the execution of water resources management, the people are entitled to:

a. Obtain information related to water resources management;

<sup>604</sup> Available at: <http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/W/WaterA00.pdf> (Last visited 28 April 2011)

<sup>605</sup> Available at: [http://www.ddws.nic.in/popups/RuralDrinkingWater\\_2ndApril.pdf](http://www.ddws.nic.in/popups/RuralDrinkingWater_2ndApril.pdf). (Last visited 27 April 2011)

<sup>606</sup> Original available at: <http://faolex.fao.org/docs/pdf/ins69745.pdf> (Last visited 26 April 2011)

<sup>607</sup> Available at: <http://faolex.fao.org/docs/texts/ins48775.doc>. Cf. as well the elucidation at <http://faolex.fao.org/docs/texts/ins48775-elucidation.doc>. (Last visited 28 April 2011)



## INDONESIA

***Government Regulation No. 16/2005 regarding Development of Drinking Water Supply Systems and Sanitation***<sup>608</sup>

### **Article 67: Customer Rights and Obligations**

- (1) Every customer of drinking water service and sanitation have the right to:
- a. Obtain drinking water services which meet the requirements of quality, quantity, and continuity in accordance with the determined standards.
  - b. Obtain information about the structure and magnitude of tariff and bills.

## INDONESIA

***Technical guidance and procedures for regulating tariffs of drinking water in regional administration-owned drinking water companies, regulation of the Minister of Home Affairs, No.23/2006, 3 July 2006***<sup>609</sup>

### **Article 82**

In the execution of water resources management, the people are entitled to:

- a. Obtain information related to water resources management; [...]

## AUSTRALIA

***Australian Utilities Act 2000 No. 65, 2002, last amended by A2010-54 of 16 December 2010***<sup>610</sup>

### **36 Public consultation**

(1) Before ICRC makes a defined licence decision under this division, it may give public notice about the matter to be decided and invite submissions about that matter from interested people.

(2) The public notice must—

- (a) be published in a daily newspaper and on ICRC's web site on the Internet; and
- (b) state where copies of relevant documents may be inspected; and

(c) state—

- (i) where submissions may be lodged; and
- (ii) the closing date for submissions, that is at least 28 days after the day the notice is published.

(3) If ICRC gives public notice under subsection (1) about a defined licence decision, it must not make the decision unless it has—

- (a) allowed the utility a reasonable opportunity—
  - (i) to examine submissions lodged with ICRC in accordance with the public notice; and
  - (ii) to make representations to ICRC about any matter raised in the submissions; and
- (b) considered the matters raised in all the submissions and representations properly made to ICRC.

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<sup>608</sup> Indonesian original available at: <http://www.presidentri.go.id/DokumenUU.php/101.pdf> (Last visited 26 April 2011)

<sup>609</sup> Available at: <http://faolex.fao.org/docs/pdf/ins67962.pdf> (Last visited 28 April 2011)

<sup>610</sup> Available at: <http://www.legislation.act.gov.au/a/2000-65/current/pdf/2000-65.pdf> (Last visited 28 April 2011)

### **53 Public access to licences etc**

(1) ICRC must make copies of each of the documents mentioned in subsection available for inspection by members of the public—

(3) A person may—

(a) without charge, inspect a document made available in accordance with subsection (1); and (b) make a copy of all or any part of the document, during ordinary office hours, at ICRC's office.

### **Section 170: Functions**

The council has the following functions:

(a) to facilitate the resolution of complaints, for example, by -

(i) providing information to consumers and the public about its functions; and

[...]

*Note: The Australian Utilities Act 2000, only applies to Australia's "Australian Capital Territory."*

## **BANGLADESH**

***National Water Policy, 1999***<sup>611</sup>

### **4.16 Stakeholder Participation**

[...]

d. All opportunities are explored and efforts undertaken to ensure that the landless and other disadvantaged groups are directly involved in participatory management of local water resources. [...]

## **BANGLADESH**

***Draft Water Act, 2009***<sup>612</sup>

### **74. Procedure to establish water user association**

1) The government may determine procedures from time to time to establish water user associations, and revise these procedures for equitable, efficient and participatory water resource management including by ensuring the adequate representation of women, landless, share croppers and other vulnerable groups in the association.

### **75. Functions of the Associations:**

The broad tasks and responsibilities of the Association will, among other things, include the followings:

(a) Stakeholders' interactive activities through preliminary discussions, meetings, motivations etc.

(b) Formally represent the beneficiaries and project affected persons including female in all issues relating to water management

(c) Participate in all stage of project cycle

(h) Work with implementing agencies, NGOs, Community level self-help groups and LGIs including in arranging relevant extension, training and other service for various stakeholder groups. In doing so, the Association will ensure equitable access and participation of female and male in all the services and activities.

## **INDIA**

***National Water Policy, 2002***<sup>613</sup>

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<sup>611</sup> Available at: [http://www.warpo.gov.bd/nw\\_policy.pdf](http://www.warpo.gov.bd/nw_policy.pdf). (Last visited 26 April 2011)

<sup>612</sup> Available at: <http://www.warpo.gov.bd/RETA/Draft%20BWA.pdf> (Last visited 26 April 2011)

## **Participatory Approach to Water Resources Management**

12. Management of the water resources for diverse uses should incorporate a participatory approach; by involving not only the various governmental agencies but also the users and other stakeholders, in an effective and decisive manner, in various aspects of planning, design, development and management of the water resources schemes. Necessary legal and institutional changes should be made at various levels for the purpose, duly ensuring appropriate role for women. Water Users' Associations and the local bodies such as municipalities and *gram panchayats* should particularly be involved in the operation, maintenance and management of water infrastructures / facilities at appropriate levels progressively, with a view to eventually transfer the management of such facilities to the user groups / local bodies.

→ *Note that this Policy will be reviewed soon. Several consultations took place in 2010*<sup>614</sup>

## **NEPAL**

***National Urban Water Supply and Sanitation Sector Policy, draft of February 2009***<sup>615</sup>

### **9.3 Social Inclusion: Access to Services for the Poor and Disadvantaged Groups**

9.3.6 Women's participation will be emphasized in all aspects of water supply and sanitation planning, implementation, management, operation and maintenance.

9.3.5 The rights and needs of poor and marginalised groups, and especially of women, will be protected primarily through their statutory and proportional representation on urban Water User and Sanitation Committees and related sub-committees. Affirmative action is proposed to ensure that such representatives fill executive positions in these committees thereby ensuring that their interests are protected.

## **PAKISTAN**

***National Drinking Water Policy, September 2009***<sup>616</sup>

### **6.5 Community Participation and Empowerment**

(i) Participation communities, especially women and children, in planning, implementation, monitoring and operations and maintenance of water supply systems will be encouraged to promote community ownership and empowerment as well as sustainability;

(iii) Community mobilization units will be established in water supply related institutions;

(iv) Special focus will be placed on gender training programs for the staff of water supply related institutions at all levels so that they are able to respond in a sensitive manner to the gender differentiated needs in the drinking water sector;

(v) Special efforts will be made to recruit and induct women in water supply related institutions and other relevant agencies to ensure that the needs of women are

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<sup>613</sup> Available at: <http://wrmin.nic.in/writereaddata/linkimages/nwp20025617515534.pdf>. (Last visited 2 May 2011)

<sup>614</sup> For more information on reviewing the National Water Policy of 2002, see:

<http://www.wrmin.nic.in/index1.asp?linkid=201&langid=1> (Last visited 27 April 2011)

<sup>615</sup> Available at: [http://www.ngoforum.net/index.php?option=com\\_docman&task=doc\\_view&gid=30](http://www.ngoforum.net/index.php?option=com_docman&task=doc_view&gid=30) (Last visited 27 April 2011)

<sup>616</sup> Available at: <http://www.environment.gov.pk/NEP/DWPolicyOct2009.pdf> (Last visited 26 April 2011)

adequately addressed in design and operation & maintenance of water supply systems; and

(vi) Representation of women councillors in all review and decision making forums regarding drinking water supply at the District, Tehsil and Union Council levels will be ensured.

## **SRI LANKA**

***The Rural Water Supply and Sanitation Policy (RWSS Policy), 2001***<sup>617</sup>

### **2.0 - Principles of the Policy**

[...]

VI. Sector approaches should be based on participatory approach involving users, planners and policy makers at all levels; [...]

XI. Women should play a central role in decision making process of the sector.

***National Policy on Water Supply and Sanitation (WSS Policy), 2002***<sup>618</sup>

### **3.5 - Source Protection and Water Conservation**

Strategies ...

d. Government agencies, service providers and any person shall cooperate and participate in programs to protect drinking water sources and reduce the impact of wastewater discharges to inland and coastal waters.

## **INDONESIA**

***Technical guidance and procedures for regulating tariffs of drinking water in regional administration-owned drinking companies, regulation of the Minister of Home Affairs, No.23/2006, 3 July 2006***<sup>619</sup>

### **Article 70**

(1) The Government and regional government should organize the empowerment of water resources stakeholders and institutional owners in a well-planned and systematic manner to improve water resources management performance.

(2) Empowerment as intended under paragraph (1) should be conducted in water resources planning, construction execution, supervision, operation and maintenance, by involving the role of the people.

(3) Community groups on their own initiative may organize empowerment efforts for their respective needs guided by the purposes of empowerment as intended under paragraphs (1) and (2).

(4) Empowerment as intended under paragraph (1) should be conducted in the form of education and training, research and development as well as counselling.

## **SRI LANKA**

***The Rural Water Supply and Sanitation Policy (RWSS Policy), 2001***<sup>620</sup>

### **4.4 Community base[d] Organizations (CBOs)**

The functions of CBOs will be to:

(i) Assess the needs, the demand and the aspirations of the communities for water supply, sanitation facilities and services.

<sup>617</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 27 April 2011)

<sup>618</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 2 May 2011)

<sup>619</sup> Original available at: <http://faolex.fao.org/docs/pdf/ins67962.pdf>. (Last visited 26 April 2011)

<sup>620</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 27 April 2011)

ii) Assess the technical feasibility and economic viability of different options for providing water supply and sanitation facilities. ...

v) Ensure the participation of user community and other partners at all stages of the process.

#### **4.5 Non Governmental Organization (NGOs)**

Subject to the regulations imposed and standards set by the Government, Provincial Council and the Local Authorities, the functions of NGOs will be to:

i) Facilitate sector development activities with the concurrence of the local authorities.

ii) Assess the needs demand and the aspiration of the community for water supply and sanitation facilities.

iii) Assess the technical feasibility, economic viability of different options for providing water supply and sanitation facilities.

vi) Ensure participation of the user community and other partners at all stages of the process.

#### ***National Policy on Water Supply and Sanitation (WSS Policy), 2002***<sup>621</sup>

#### **3.6 Quality Assurance and Capacity Building**

##### **Objective**

Enhance the service of quality through the implementation of the following programs in order to improve the capacity of service providers including community groups in building & operation of water supply & sanitation facilities.

#### **3.2.d. Accountability**

#### **NEPAL**

#### ***National Urban Water Supply and Sanitation Sector Policy, draft of February 2009***<sup>622</sup>

#### **9.7.1 Roles and Responsibilities**

[...]

4. Designated local bodies (VDCs, Municipalities and DDCs) shall facilitate, monitor and regulate the formation, registration and functioning of WUSC. Local government bodies will also take the lead in formulating development plans inclusive of water supply and sanitation services for areas in their jurisdiction. These agencies will facilitate the development, implementation and operation of water supply and sanitation services by resolving any water source conflicts, providing financial assistance, negotiating with funding agencies, etc.

#### **AUSTRALIA**

#### ***Australian Utilities Act 2000 No. 65, 2002, last amended by A2010-54 of 16 December 2010***<sup>623</sup>

#### **Division 12.5 Powers and decisions of ACAT**

#### **136 Controller's functions**

<sup>621</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 2 May 2011)

<sup>622</sup> Available at: [http://www.ngoforum.net/index.php?option=com\\_docman&task=doc\\_view&gid=30](http://www.ngoforum.net/index.php?option=com_docman&task=doc_view&gid=30) (Last visited 27 April 2011)

<sup>623</sup> Available at: <http://www.legislation.act.gov.au/a/2000-65/current/pdf/2000-65.pdf> (Last visited 28 April 2011)

(1) A controller must, so far as practicable, ensure the provision or continued provision of the utility service to which the appointment relates.

#### **171 Principles—pt 12**

In exercising its functions under this part, the ACAT must consider the following principles:

- (a) that utility services should continue to be provided to complainants suffering financial hardship;
- (b) that the rights of complainants under the Act should be protected.

#### **173 Help with applications about failure to provide, or withdrawal of, utility services**

(1) This section applies if—

(a) the registrar considers that a person making an application, or considering making an application, needs help with the application; and

(b) the application is in relation to the failure to provide a utility service to the person or the withdrawal of a utility service from the person.

(2) The registrar must ask the person whether the person wants the registrar to put the application in writing for the person.

(3) If the person wants the registrar to put the application in writing, the registrar must do so.

(4) This section is in addition to the *ACT Civil and Administrative Tribunal Act 2008*, section 13 (Help with applications etc).

*Note: The Australian Utilities Act 2000, only applies to Australia's "Australian Capital Territory."*

#### **SRI LANKA**

##### ***National Water Supply & Drainage Board Corporate Plan 2007-2011***<sup>624</sup>

Goal 5 - Ensure greater accountability and transparency

Ensure compliance with established rules & regulations regarding accounting practices.

Introduce adequate internal checks & controls to weak areas & report non compliance for further improvements

#### **MALAYSIA**

##### ***Water Services Industry Act (Act 655), 20 July 2006***<sup>625</sup>

#### **33. Dealing with consumers**

A service licensee providing water supply services or sewerage services has a general duty to -

- (a) deal reasonably with consumers; and
- (b) adequately address consumer complaints. ...

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<sup>624</sup> Available at: <http://www.waterboard.lk/Scripts/htm/Publications/Corporate%20Plan%202007%20-%202011.pdf> (Last visited 28 April 2011)

<sup>625</sup> Available at: <http://www.agc.gov.my/Akta/Vol.%2014/Act%20655.pdf> (Last visited 29 April 2011)

#### **41. Water quality**

(1) The water distribution licensee shall, when supplying water to any premises, ensure that at the time of supply the quality of water supplied complies with the minimum quality standards as prescribed by the Minister.

(2) The water distribution licensee shall ensure, as far as it is reasonably practicable, in relation to each source or combination of sources from which the licensee supplies water to any premises, that there is no deterioration in the minimum quality standards of the water which is supplied from time to time from that source or combination of sources. [...]

#### **68. Consumer standards**

(1) The Commission may, on its own initiative or upon the recommendation of the Water Forum, prepare or caused to be prepared consumer standards which shall include model procedures for—

- (a) reasonably meeting consumer requirements;
- (b) the handling of customer complaints and disputes including a mediation process other than a court, and procedures for the compensation of customers in case of a breach of the consumer standards; and
- (c) the protection of consumer information.

(2) The matters which the consumer standards may address may include—

- (a) the provision of information to consumers regarding services, rates and performance;
- (b) service levels and quality of service to be provided to consumers;
- (c) the provision of fault repair services;
- (d) customer charging, billing, collection and credit practices; and
- (e) any other matters of concern to consumers.

### **MALAYSIA**

#### ***Water Services Industry Act (Act 655), 20 July 2006***<sup>626</sup>

#### **69. Water Forum**

(1) The Commission shall designate a body to be known as the “Water Forum” for the purposes of this Act by notifying the body in writing, if the Commission is satisfied that—

- (a) the membership of the body is open to all persons;
- (b) the body is capable of performing as required under the relevant provisions of this Act; and
- (c) the body has a written constitution. ...

#### **70. Functions of the Water Forum**

(1) The Water Forum shall have all the functions imposed on it under this Act and, without prejudice to the generality of the foregoing, the Water Forum shall have the following functions:

- (a) to give feedback and make recommendations to the Commission on any matters concerning the interest of consumers of the water supply services and sewerage services;
- (b) to represent the interests of consumers of the water supply services and sewerage services;

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<sup>626</sup> Available at: <http://www.agc.gov.my/Akta/Vol.%2014/Act%20655.pdf> (Last visited 29 April 2011)

- (c) to promote consumer's interest in relation to the tariffs and standards of water supply services and sewerage services;
- (d) to identify and keep under review matters affecting the interests of consumers and ensure that the water supply services and sewerage services companies are aware of, and responsive to, concerns about their services;
- (e) to publicise the existence, functions and work of the Water Forum in protecting the interests of consumers; and
- (f) to carry out any functions as may be determined by the Commission.

(2) The Commission shall have due regard to the recommendations of the Water Forum in the exercise of its powers and the performance of its functions under this Act.

#### **91. Establishment of Appeal Tribunal**

There shall be established an Appeal Tribunal for the purpose of reviewing any of the following matters on appeal:

- (a) any directions given by the Commission under this Act or its subsidiary legislation; [...]

### **INDONESIA**

***Law No. 7/2004 on Water Resources, promulgated 8 March 2004***<sup>627</sup>

#### **Article 82**

In the execution of water resources management, the people are entitled to: [...]

- b. Obtain proper compensation for loss incurred as a result of the execution of water resources management;
- d. Declare their objection against the announced water resources management plan within a certain period in accordance with local conditions;
- e. File reports and claims with the related authority for loss incurred to them regarding the execution of water resources management; and/or
- f. File a suit with the court regarding various water resources issues that inflict a loss in their lives.

#### **Article 91**

Government agencies in charge of water resources affairs should take measures for the interest of the people if there is any indication that the people suffer any loss as a result of water pollution and/or water source damage that affects the lives of the people.

#### **Article 92**

(1) Organizations that operate in water resources activities are entitled to file claims against individuals or business entities that commit activities resulting in the damage of water resources and/or their infrastructures, for the purposes of the sustainability of water resources functions.

(2) Claims as intended under paragraph (1) are limited to those aimed at the implementation of certain measures related to the sustainability of water resources functions and/or claims to repay for actual costs incurred.

(3) Organizations that are entitled to file for claims as intended under paragraph (1) should fulfill the following requirements:

- a. Constituting a social organization having legal entity status and operating in water resources activities.

<sup>627</sup> Available at: <http://faolex.fao.org/docs/texts/ins48775.doc>. See also the explanation at <http://faolex.fao.org/docs/texts/ins48775-elucidation.doc>. (Last visited 26 April 2011)



- b. Mentioning the incorporation aims in the articles of association for purposes related to the sustainability of water resources functions; and
- c. Having conducted activities in accordance with their articles of association.

## **INDONESIA**

### ***Government Regulation No. 16/2005 regarding Development of Drinking Water Supply Systems and Sanitation***<sup>628</sup>

#### **Section 48: Customer Rights and Obligations**

- (1) Every customer of drinking water service and sanitation have the right to:
- c. Propose accusation to the court against problems of development establishment of drinking water supply system and sanitation that cause financial loss.
  - d. Get compensation for the detriment as effect of dereliction in fulfilling its obligation.
- [...]

#### ***3.2.e. Accessibility of water and sanitation***

## **SRI LANKA**

### ***The Rural Water Supply and Sanitation Policy (RWSS Policy), 2001***<sup>629</sup>

#### **3.2.2. Haulage Distance**

[...] - The maximum haul of water to the dwelling of any user should not exceed 200m. In steep terrain this should be reduced with consideration to the effort for hauling water.

## **BANGLADESH**

### ***National Policy for Safe Water Supply and Sanitation (Local Government Division Ministry of L.G.R.D & Co-operatives), 1998***<sup>630</sup>

#### **3. Objectives**

The objectives of the “National Policy for Safe Water Supply and Sanitation” are to improve the standard of public health and to ensure improved environment. For achieving these objectives, steps will be taken for:

- a) facilitating access of all citizens to basic level of services in water supply and sanitation

[...]

Within the overall objectives the following specific goals will be targeted for achievement in phases in the near future: ...

- ii. Ensuring the installation of one sanitary latrine in each household in the rural areas and improving public health standard through inculcating the habit of proper use of sanitary latrines.
- iii. Making safe drinking water available to each household in the urban areas.
- iv. Ensuring sanitary latrine within easy access of every urban household through technology options ranging from pit latrines to water borne sewerage.

*Note that there is also a National Sanitation Strategy of March 2005.*<sup>631</sup>

<sup>628</sup> Indonesian original available at: <http://www.presidentri.go.id/DokumenUU.php/101.pdf> (Last visited 26 April 2011)

<sup>629</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 27 April 2011)

<sup>630</sup> Available at: [http://www.sdnpsd.org/sdi/international\\_days/wed/2006/bangladesh/documents/national\\_pol\\_safe\\_drinking\\_water\\_sanitation1998.pdf](http://www.sdnpsd.org/sdi/international_days/wed/2006/bangladesh/documents/national_pol_safe_drinking_water_sanitation1998.pdf). (Last visited 26 April 2011)

## **BANGLADESH**

***Draft Water Act, 2009***<sup>632</sup>

### **52. Drainage and sanitation**

The ECNWRC shall direct any public water and sewage authority to take appropriate measures for drainage and sanitation, including treatment of domestic waste water and sewage, construction of sewage treatment plants, and the replacement of open drains in the interest of public health.

## **PAKISTAN**

***National Sanitation Policy, September 2006***<sup>633</sup>

### **d. Objectives**

The policy objectives are;

To ensure an open defecation free environment; the safe disposal of liquid, solid, municipal, industrial and agricultural wastes; and the promotion of health and hygiene practices.

To facilitate access of all citizens to basic level of services in sanitation including the installation of sanitary latrines in each house-hold, in rural and urban areas, schools, bus stations and important public places and also community latrines in densely populated areas.

### **4. Principles of Policy**

The underlining principles of the policy are;

iv.) The provision of adequate, appropriately and hygienically designed toilets for public use will be ensured in all public buildings, restaurants, recreation and amusement areas, community halls, fish harbours, industries etc.

## **Policy Measures**

### **h Urban Sanitation**

iii. Provision of safe water and sanitation facilities will be made mandatory for all public facilities such as hospitals, offices and schools. The use of clean drinking water to flush the toilets will be discouraged.

## **LAO PDR**

***Water and Water Resources Law, Law No. 02-96/NA of 11 October 1996***  
**(Unofficial Translation)**<sup>634</sup>

### **Article 14: The right to the use of water and water resources**

Individuals, communities and organisations have the right to use water and water resources for family domestic or business purposes.

The right to use water and water resources are classified into small scale right to use, medium scale right to use and large scale right to use.

### **Article 15: Small scale use**

The following purposes are considered small scale use:

- family domestic use and community requirement, cultural use and sport.

[...]

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<sup>631</sup> Available at: [http://www.sanitation-bd.org/downloads/MR11\\_SanitationStrategy.pdf](http://www.sanitation-bd.org/downloads/MR11_SanitationStrategy.pdf). (Last visited 26 April 2011)

<sup>632</sup> Available at: <http://www.warpo.gov.bd/RETA/Draft%20BWA.pdf> (Last visited 26 April 2011)

<sup>633</sup> Available at: <http://moenv.gov.pk/> (Last visited 26 April 2011)

<sup>634</sup> Available at: <http://faolex.fao.org/docs/pdf/lao7478.pdf>. (Last visited 29 April 2011)

The above small scale use shall always be permitted, except where there are restrictions by concerned Ministries or Local Authorities.

## **VIETNAM**

***The Law on Water Resource (No.8/1998/QH10 of May 20, 1998)***<sup>635</sup>

### **Article 1.- Ownership of water resource**

1. The water resource comes under the ownership of the entire people under the unified management of the State.
2. Organizations and individuals are entitled to exploit and use the water resource for life and production. [...] The State protects the legitimate interests of organizations and individuals in the exploitation and use of the water resource.

## **NEPAL**

***Water Resources Act (2049/1992), 17 December 1992***<sup>636</sup>

### **4. Utilization of Water Resources**

- (1) No person shall be entitled to utilize the water resources without obtaining a license under this Act.
- (2) Notwithstanding anything written in sub-section (1), no license shall be required for the following uses of water resources.
  - (a) For one's own drinking and other domestic use on an individual or collective basis, [...]

## **AUSTRALIA**

***Australian Utilities Act 2000 No. 65, 2002, last amended by A2010-54 of 16 December 2010***<sup>637</sup>

### **Section 83: Water connection service**

- (1) A water distributor must, on application by a person for any of the following utility services, provide the service in accordance with the distributor's standard customer contract:
  - (a) connect the premises to which the application relates to the distributor's network; [...]

### **Section 84: Water supply service**

- (1) A water supplier must, on application by a person, and in accordance with the supplier's standard customer contract, supply water to premises owned or occupied by the person.

### **Section 85: Sewerage connection service**

- (1) A sewerage utility must, on application by a person for any of the following utility services, provide the service in accordance with the utility's standard customer contract:
  - (a) connect the premises to which the application relates to the utility's network;

### **Section 86: Sewerage service**

A sewerage utility must, on application by a person, and in accordance with the utility's standard customer contract, provide a sewerage service for the premises to which the application relates.

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<sup>635</sup> Available at: <http://faolex.fao.org/docs/pdf/vie14294.pdf> (Last visited 29 April 2011)

<sup>636</sup> Available at <http://faolex.fao.org/docs/pdf/nep1367.pdf>. (Last visited 27 April 2011)

<sup>637</sup> Available at: <http://www.legislation.act.gov.au/a/2000-65/current/pdf/2000-65.pdf> (Last visited 28 April 2011)

*Note: The Australian Utilities Act 2000 only applies to Australia's "Australian Capital Territory."*

## **BANGLADESH**

***National Policy for Safe Water Supply and Sanitation (Local Government Division Ministry of L.G.R.D & Co-operatives), 1998***<sup>638</sup>

### **3. Objectives**

The objectives of the "National Policy for Safe Water Supply and Sanitation" are to improve the standard of public health and to ensure improved environment. For achieving these objectives, steps will be taken for:

a) facilitating access of all citizens to basic level of services in water supply and sanitation

[...]

Within the overall objectives the following specific goals will be targeted for achievement in phases in the near future: ...

ii. Ensuring the installation of one sanitary latrine in each household in the rural areas and improving public health standard through inculcating the habit of proper use of sanitary latrines.

iii. Making safe drinking water available to each household in the urban areas.

iv. Ensuring sanitary latrine within easy access of every urban household through technology options ranging from pit latrines to water borne sewerage.

*Note that there is also a National Sanitation Strategy of March 2005.*<sup>639</sup>

## **MALAYSIA**

**Water Services Industry Act (Act 655), 20 July 2006**<sup>640</sup>

### **36. Developing and maintaining water supply system**

(1) It shall be the duty of every service licensee providing water supply services to maintain an efficient and economical water supply system.

(2) A water distribution licensee shall ensure that all arrangements have been made -

(a) for providing water supply to premises within its water supply distribution area and for making such supply available to persons who demand them; and

(b) for maintaining, improving and extending the water supply system in relation to the distribution of water, such that the water distribution licensee is and continues to be able to meet its obligations under this Act. ...

## **NEPAL**

***National Urban Water Supply and Sanitation Sector Policy, draft of February 2009***<sup>641</sup>

### **7.0 Objectives**

1. To ensure the availability of basic safe, accessible and adequate water supply and sanitation services to all urban populations by 2017 with at least one-third of the urban population having access to high or medium level services.

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<sup>638</sup> Available at:

[http://www.sdnpsbd.org/sdi/international\\_days/wed/2006/bangladesh/documents/national\\_pol\\_safe\\_drinking\\_water\\_sanitation1998.pdf](http://www.sdnpsbd.org/sdi/international_days/wed/2006/bangladesh/documents/national_pol_safe_drinking_water_sanitation1998.pdf). (Last visited 26 April 2011)

<sup>639</sup> Available at: [http://www.sanitation-bd.org/downloads/MR11\\_SanitationStrategy.pdf](http://www.sanitation-bd.org/downloads/MR11_SanitationStrategy.pdf). (Last visited 26 April 2011)

<sup>640</sup> Available at: <http://www.agc.gov.my/Akta/Vol.%2014/Act%20655.pdf> (Last visited 29 April 2011)

<sup>641</sup> Available at: [http://www.ngoforum.net/index.php?option=com\\_docman&task=doc\\_view&gid=30](http://www.ngoforum.net/index.php?option=com_docman&task=doc_view&gid=30) (Last visited 27 April 2011)

2. To reduce the incidence of water, hygiene and sanitation related diseases in urban areas by “.... %” by 2017

## **NEPAL**

***National Urban Water Supply and Sanitation Sector Policy, draft of February 2009***<sup>642</sup>

### **9.3 Social Inclusion: Access to Services for the Poor and Disadvantaged Groups**

9.3.1 Recognising that the impact of deficient basic services falls most heavily on the poor, policy will ensure that such groups **have access** to sustainable basic services at affordable prices and a voice in service-related decision making that will affect them. This is regardless of whether or not such residents have legal citizenship and land tenure rights. As such, squatter and slum settlements will be automatically included in service areas.

## **SRI LANKA**

***National Policy on Water Supply and Sanitation (WSS Policy), 2002***<sup>643</sup>

### **2.2 Goals in water supply**

- Access to sufficient and safe drinking water is provided to 85% of the population of Sri Lanka by 2010 and 100% by 2025;
- Piped water supply is provided to 100% of the urban population and ....% of the rural population by 2010; and
- Service levels and the quality of water achieves national standards in urban and rural areas.

### **2.3 Goals in sanitation**

- Access to adequate sanitation is available to 70% of the population of Sri Lanka by 2010 and 100% by 2025;
- Piped sewerage systems are provided in the major urban areas and selected growth centres; and
- Standard on-site sanitation is available to all those not connected to a sewerage system or other sanitation scheme.

### **3.2.f. Affordability of water and sanitation**

## **BANGLADESH**

***National Policy for Safe Water Supply and Sanitation (Local Government Division Ministry of L.G.R.D & Co-operatives), 1998***<sup>644</sup>

### **7. Policy principles**

[...] To ensure that service provision is viable, the price of water should reflect its economic value, with the eventual objective of covering the cost of supply. However,

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<sup>642</sup> Available at: [http://www.ngoforum.net/index.php?option=com\\_docman&task=doc\\_view&gid=30](http://www.ngoforum.net/index.php?option=com_docman&task=doc_view&gid=30) (Last visited 27 April 2011)

<sup>643</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 27 April 2011)

<sup>644</sup> Available at: [http://www.sdnpsd.org/sdi/international\\_days/wed/2006/bangladesh/documents/national\\_pol\\_safe\\_drinking\\_water\\_sanitation1998.pdf](http://www.sdnpsd.org/sdi/international_days/wed/2006/bangladesh/documents/national_pol_safe_drinking_water_sanitation1998.pdf). (Last visited 2 May 2011)

the transition from the current level of subscription to new rate of payment should be gradual and there should be a safety net for hard-core poor communities.

*Note that there is also a National Sanitation Strategy of March 2005.*<sup>645</sup>

## **BANGLADESH**

### ***National Water Policy, 1999***<sup>646</sup>

#### **4.14: Economic and Financial Management**

d: The pricing structure will match the goals and needs of the water provider and the population served. Water rates will be lower for basic consumption, increasing with commercial and industrial use. The rates for surface and groundwater will reflect, to the extent possible, their actual cost of delivery.

## **VIETNAM**

### ***The Law on Water Resource (No.8/1998/QH10 of May 20, 1998)***<sup>647</sup>

#### **Article 7.- Financial policy on water resource**

2. The State shall carry out the policy of exemption and reduction of tax on water resource, and water resource charge with regard to the areas with difficult socioeconomic conditions and areas with exceptionally difficult socio- economic conditions.

## **INDONESIA**

### ***Technical guidance and procedures for regulating tariffs of drinking water in regional administration-owned drinking companies (regulation of the Minister of Home Affairs, No.23/2006 dated July 3, 2006)***<sup>648</sup>

#### **Article 3**

(1) Tariff of the standard of basic need for drinking water shall be affordable to purchasing power of subscribers having the same income as Provincial Minimum Wage.

(2) Tariff shall meet the principle of affordability as meant in paragraph (1) if domestic expense on the fulfilment of the standard of basic need for drinking water does not exceed 4% (four percent) of the income of subscribers

(3) Justice in the imposition of tariff shall be achieved through application of differentiation tariff and cross subsidy among group of subscribers.

## **SRI LANKA**

### ***National Policy on Water Supply and Sanitation (WSS Policy), 2002***<sup>649</sup>

#### **3.3 Tariffs, Operational Costs and Subsidies**

##### **Objective**

Sustain the service delivery of the water and sanitation sector by gradually increasing tariffs to reflect the full cost of efficient service and reduce subsidies while ensuring the affordability of water and sanitation for low-income urban and rural consumers.

##### **Strategies**

**e.** The water tariff structure shall make appropriate provisions for low-income urban and rural consumers including an appropriate lifeline tariff to ensure the affordability of a level of water sufficient for basic consumption and hygiene.

<sup>645</sup> Available at: [http://www.sanitation-bd.org/downloads/MR11\\_SanitationStrategy.pdf](http://www.sanitation-bd.org/downloads/MR11_SanitationStrategy.pdf). (Last visited 26 April 2011)

<sup>646</sup> Available at: [http://www.warpo.gov.bd/nw\\_policy.pdf](http://www.warpo.gov.bd/nw_policy.pdf). (Last visited 26 April 2011)

<sup>647</sup> Available at: <http://faolex.fao.org/docs/pdf/vie14294.pdf> (Last visited 29 April 2011)

<sup>648</sup> Available at: <http://faolex.fao.org/docs/pdf/ins67962.pdf>. (Last visited 2 May 2011)

<sup>649</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 27 April 2011)

## INDONESIA

***Law No. 7/2004 on Water Resources, promulgated 8 March 2004***<sup>650</sup>

### **Article 80**

(1) Water resources users for the fulfilment of principal daily needs and for small-scale agriculture should not be charged any fees for water resources management.

(2) Water resources users other than those as intended under paragraph (1) should bear a fee for water resources management.

(3) The determination of the amount of water resources management fees as intended under paragraph (2) should be based on accountable and rational economic calculations.

(4) The determination of the unit value of water resources management service fees for each type of water resources use should be based on the consideration of the economic capacity of the user groups and the volume of water resources used.

(5) Determination of the unit value of water resources management service fees for the type of non-commercial use should be exempt from the rational economic calculations as intended under paragraph (3). ...

## INDONESIA

***Regulation No. 23/2006 on technical guidance and procedures for regulating tariff of drinking water in regional administration-owned drinking companies, stipulated on 3 July 2006***<sup>651</sup>

### **Article 2**

Stipulation of the tariff shall be based on principles

(a) affordability and justice [...]

(e) transparency and accountability [...]

## NEPAL

***National Urban Water Supply and Sanitation Sector Policy, draft of February 2009***<sup>652</sup>

### **9.3 Social Inclusion: Access to Services for the Poor and Disadvantaged Groups**

[...]

9.3.3 Wherever feasible, poor and disadvantaged groups will be connected to the main water supply and sewerage systems with connection costs built into total scheme costs. Consumers seeking connections after scheme designs and costings have been finalised will be required to pay a separate connection fee. Tariff charges for community taps will be cross-subsidized such that they recover O&M costs only. A range of payment options, including regular instalments and credit schemes, will be offered to allow poor consumers to meet tariff charges.

### **9.4 Protecting and Optimising Investments**

9.5.1.

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<sup>650</sup> Available at: <http://faolex.fao.org/docs/texts/ins48775.doc>. See also the explanation at <http://faolex.fao.org/docs/texts/ins48775-elucidation.doc>. (Last visited 26 April 2011)

<sup>651</sup> Available at: <http://faolex.fao.org/docs/pdf/ins67962.pdf>. (Last visited 29 April 2011)

<sup>652</sup> Available at: [http://www.ngoforum.net/index.php?option=com\\_docman&task=doc\\_view&gid=30](http://www.ngoforum.net/index.php?option=com_docman&task=doc_view&gid=30) (Last visited 27 April 2011)

b. [...] On site sanitation will be the responsibility of individual households but with subsidies and technical guidance available from municipalities for poor and marginalised settlements.

## **9.5 Cost Recovery and Financial Sustainability**

[...]

Penalties for late payments will be clearly laid out and strictly enforced by the water utility operators/service providers. Beyond a certain specified period of default, services may be disconnected and the costs of reconnection, including transaction costs, charged to the defaulter.

The exceptions here will be poor users who are served at the basic service level through public water points where continuity of service provision will be maintained, and households headed by a single woman or disabled person.

## **PAKISTAN**

***National Drinking Water Policy, September 2009***<sup>653</sup>

### **Foreword**

The Government of Pakistan recognizes provision of safe drinking water as a fundamental human right. In this context, the Ministry of Environment has formulated National Drinking Water Policy to provide adequate quantity of safe drinking water to the entire population **at an affordable cost** and in an equitable, efficient and sustainable manner.

## **PAKISTAN**

***National Sanitation Policy, September 2006***<sup>654</sup>

### **4. Principles of Policy**

The underlining principles of the policy are;

vii.) O&M costs will be generated at the local level through a combination of affordable user charges.

### ***3.2.g. Water availability and allocation***

## **INDONESIA**

***Law No. 7/2004 on Water Resources, promulgated 8 March 2004***<sup>655</sup>

### **Article 5**

The state guarantees the right of every person in obtaining water for minimum rudimentary daily use to fulfill a healthy, clean and productive life.

### **Article 8**

(1) Beneficial Use Water Right is obtained without any license to fulfill the normal daily needs of individuals and for small-scale farming within an irrigation system. ...

### **Article 16**

The authority and responsibilities of regent/municipal government comprise:

[...] (h) the fulfillment of minimum daily need of water for the people in the area; ...

<sup>653</sup> Available at: <http://www.environment.gov.pk/NEP/DWPolicyOct2009.pdf> (Last visited 26 April 2011)

<sup>654</sup> Available at: <http://moenv.gov.pk/> (Last visited 26 April 2011)

<sup>655</sup> Available at: <http://faolex.fao.org/docs/texts/ins48775.doc>. Cf. as well the explanation at <http://faolex.fao.org/docs/texts/ins48775-elucidation.doc>. (Last visited 26 April 2011)



## INDONESIA

### ***Government Regulation No. 16/2005 regarding Development of Drinking Water Supply Systems and Sanitation***<sup>656</sup>

#### **Section 14: Water and sanitation integrated in policy and plans**

(1) The establishment to the development of the drinking water supply system and sanitation should guarantee the rights of every person to obtain drinking water for the minimal basic needs daily in order to fulfill healthy clean and productive life. ...

## INDONESIA

### ***Technical guidance and procedures for regulating tariffs of drinking water in regional administration-owned drinking companies (regulation of the Minister of Home Affairs, No.23/2006 dated July 3, 2006)***<sup>657</sup>

#### **Article 1**

[...]

8. Standard of Basic, Need for Drinking water shall be the need for water as much as 10 cubic meter/head of family/month or 60 litres/person/day or as much as other volume unit stipulated further by the Minister in charge of resource affairs. [...]

12. Low Tariff shall be a subsidized tariff whose value is lower than the basic cost. [...]

## NEPAL

### ***National Urban Water Supply and Sanitation Sector Policy, draft of February 2009***<sup>658</sup>

#### **9.1 Public Health**

(Objective 1: To ensure the availability of basic safe, accessible and adequate water supply and sanitation services to all urban populations by 2017 with x % having access to high or medium level services.

Objective 2: To reduce the incidence of water, hygiene and sanitation related diseased in urban areas.)

9.1.1 Properly functioning water supply and sanitation services will protect public health. The state shall ensure provision of basic service level of safe / potable drinking water to all in urban areas with a minimum quantity of 25 liters per capita throughout the year at an accessible point no more than 250 meters of every urban abode. The provision of water in quantity, with a minimum average supply of 100 litres per capita per day for household connections, 65 lpcd for yard connections and 25 lpcd for community taps to the quality defined by national water standards will help ensure this. The responsible authorities will be encouraged to continually maintain and upgrade supplies in order to ensure continuity of supplies and thereby protect water quality.

## NEPAL

### ***Water Resources Act (2049/1992), 17 December 1992***<sup>659</sup>

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<sup>656</sup> Indonesian original available at: <http://www.presidenri.go.id/DokumenUU.php/101.pdf> (Last visited 26 April 2011)

<sup>657</sup> English available at: <http://faolex.fao.org/docs/pdf/ins67962.pdf>. (Last visited 26 April 2011)

<sup>658</sup> Available at: [http://www.ngoforum.net/index.php?option=com\\_docman&task=doc\\_view&gid=30](http://www.ngoforum.net/index.php?option=com_docman&task=doc_view&gid=30) (Last visited 27 April 2011)

<sup>659</sup> Available at <http://faolex.fao.org/docs/pdf/nep1367.pdf>. (Last visited 27 April 2011)

## **7. Priority Order on the Utilization of Water Resources**

(1) While utilizing water resources following priority order shall, in general, be followed

(a) Drinking water and domestic uses; ...

### **SRI LANKA**

***The Rural Water Supply and Sanitation Policy (RWSS Policy), 2001***<sup>660</sup>

#### **3.2. Access to Basic Level of Water Supply**

The Government of Sri Lanka supports all activities leading to provide access to potable water to all citizens. The Guidelines described below are the minimum requirements needed to ensure health and the levels of services. This does not limit the demand for higher standards by the users. Where the users demand for higher standards, they should contribute to the incremental capital cost.

##### **3.2.1. Quantity of water**

- The minimum requirement of water for direct consumption, preparation of food and personnel hygiene is considered to be 40 liters per person per day. ...

### **SRI LANKA**

***National Water Supply & Drainage Board Corporate Plan 2007-2011***<sup>661</sup>

#### **Goals, Objectives and Strategies**

Goal 1 - Increase the water supply and sanitation coverage

The Government goal is to provide access to sufficient and safe drinking water to 85% of the population of Sri Lanka by 2015 and 100% by 2025. The NWSDB is not however covering the whole of drinking water sector in the country and part of this provision will be done by other organisations.

### **CHINA**

***Water Law of the People's Republic of China, 2002***<sup>662</sup>

#### **Article 21**

In developing and utilizing water resources, attention shall first be paid to satisfying the urban inhabitants' need of water in their daily lives, while taking into consideration the need of water in agriculture, industry and ecological environment, and the need of navigation, ...

### **INDIA**

***National Water Policy, 2002***<sup>663</sup>

#### **Water Allocation Priorities**

5. In the planning and operation of systems, water allocation priorities should be broadly as follows:

- Drinking water
- Irrigation
- Hydro-power
- Ecology [...]

<sup>660</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 27 April 2011)

<sup>661</sup> Available at: <http://www.waterboard.lk/Scripts/htm/Publications/Corporate%20Plan%202007%20-%202011.pdf> (Last visited 28 April 2011)

<sup>662</sup> Available at: [http://www.gov.cn/english/laws/2005-10/09/content\\_75313.htm](http://www.gov.cn/english/laws/2005-10/09/content_75313.htm). (Last visited 29 April 2011)

<sup>663</sup> Available at: <http://wrmin.nic.in/writereaddata/linkimages/nwp20025617515534.pdf>. (Last visited 27 April 2011)

Project planning

[...]

6.1 Water resource development projects should as far as possible be planned and developed as multipurpose projects. Provision for drinking water should be a primary consideration.

Drinking Water

8. Adequate safe drinking water facilities should be provided to the entire population both in urban and in rural areas. Irrigation and multipurpose projects should invariably include a drinking water component, wherever there is no alternative source of drinking water. Drinking water needs of human beings and animals should be the first charge on any available water.

→ *Note that this Policy will be reviewed soon. Several consultations took place in 2010.*<sup>664</sup>

## INDONESIA

***Law No. 7/2004 on Water Resources, promulgated 8 March 2004***<sup>665</sup>

### Article 26

[...]

(2) Water resources utilization is designated for sustainable water resources utilization by prioritising the fulfilment of the rudimentary living needs of the people in an impartial manner.

### Article 29

[...]

(3) Water resources supply for the fulfilment of rudimentary daily living needs and irrigation of small-scale farming in the existing irrigation system constitute the main priority of water resources supply above all other needs.

## CAMBODIA

***Law on Water Resources Management of the Kingdom of Cambodia, June 2007***<sup>666</sup>

### Article 4

Water and water resources shall be managed and developed based on an integrated water resources management (IWRM).

The IWRM shall take into account:

requirement for an **effective and sustainable** water use for human being, environment and other sectors.

## PAKISTAN

***National Drinking Water Policy, September 2009***<sup>667</sup>

### 4. Policy Principles

(ii) Water allocation for drinking purposes (the water used for domestic

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<sup>664</sup> For more information on reviewing the National Water Policy of 2002, see:

<http://www.wrmin.nic.in/index1.asp?linkid=201&langid=1> (Last visited 27 April 2011)

<sup>665</sup> Available at: <http://faolex.fao.org/docs/texts/ins48775.doc>. Cf. as well the explanation at <http://faolex.fao.org/docs/texts/ins48775-elucidation.doc>. (Last visited 26 April 2011)

<sup>666</sup> Available at: [http://www.lexadin.nl/wlg/search\\_result.php](http://www.lexadin.nl/wlg/search_result.php) (Last visited 29 April 2011)

<sup>667</sup> Available at: <http://www.environment.gov.pk/NEP/DWPolicyOct2009.pdf> (Last visited 26 April 2011)

purposes including drinking, cooking, hygiene and other domestic uses) will be given priority over other uses;

## **SRI LANKA**

***National Policy on Water Supply and Sanitation (WSS Policy), 2002***<sup>668</sup>

### **3.5 Source Protection and Water Conservation**

#### **Strategies**

[...]

b. In times of water scarcity, drinking water will have priority over other uses. ...

c. The reuse and re-processing of water and use of alternative water sources for non-consumptive purposes shall be encouraged

## **BANGLADESH**

***National Sanitation Strategy, March 2005***<sup>669</sup>

### **4.3 Water Rights and Allocation**

[ ... ]

b. In general, the priority for allocating water during critical periods in the water shortage zones will be in the following order: domestic and municipal uses, non-consumptive uses (e.g. navigation, fisheries and wild-life), sustenance of the river regime, and other consumptive and non-consumptive uses such as irrigation, industry, environment, salinity management, and recreation. The above order of priority could however be changed on specific socio-economic criteria of an area by local bodies through local consensus.

## **SRI LANKA**

***National Policy on Water Supply and Sanitation (WSS Policy), 2002***<sup>670</sup>

### **3.5 Source Protection and Water Conservation**

#### **Strategies**

Water demand management programs shall be implemented by service providers including programs that educate consumers about water conservation and water saving techniques. [...]

## **VIETNAM**

***Decision No. 46/2008/QĐ-TTg dated March 31, 2008 of the Prime Minister approving the master plan on socio-economic development of Lao Cai province until 2020***<sup>671</sup>

### **II. Development Objectives**

-By 2010, 100% of urban dwellers and over 75% of rural dwellers will have clean water; 85% and 98% of rural dwellers will have clean by 2015 and 2020, respectively;  
- By 2010, 100% of industrial parks will have a consolidated wastewater treatment system, over 75% of solid wastes will be collected treated and basically all hospital wastes will be treated; 90% and 100% of solid wastes will be collected and treated by 2015 and 2020 respectively.

<sup>668</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 27 April 2011)

<sup>669</sup> Available at: [http://www.sanitation-bd.org/downloads/MR11\\_SanitationStrategy.pdf](http://www.sanitation-bd.org/downloads/MR11_SanitationStrategy.pdf). (Last visited 26 April 2011)

<sup>670</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 27 April 2011)

<sup>671</sup> Available at: [http://asemconnectvietnam.gov.vn/luatasem\\_out/get\\_detail.aspx?idlaw=1034](http://asemconnectvietnam.gov.vn/luatasem_out/get_detail.aspx?idlaw=1034) (Last visited 29 April 2011)

- To improve environmental sanitation, clean water and other public services.
- [...]To prioritize investment in clean water supply works for the whole province, especially inhabited highland and limestone mountain areas and areas facing shortage of water in the dry season, such as Muong Khuong, Bac Ha, etc. To embank border rivers to prevent landslide and ensure and ensure safety for the national boundaries as well as people's production and life.

### **3.2.h. Water quality and hygiene**

#### **SRI LANKA**

***The Rural Water Supply and Sanitation Policy (RWSS Policy), 2001***<sup>672</sup>

#### **3.3 - Basic Sanitation**

Basic Sanitation should ensure protection to both surface and ground water from pollution and the users from water borne diseases and other health hazards. In conformity with this requirement the basic facility for sanitation should be the Ventilated improved Pit Latrine. Access to the basic facility for sanitation should be the Ventilated improved Pit Latrine. Access to this basic facility depends on the site technologies manageable at the household and community level should be development and promoted as a cost effective means of encouraging improved sanitation.

#### **PAKISTAN**

***National Drinking Water Policy, September 2009***<sup>673</sup>

#### **6.6. Public Awareness**

- (i) Intensive information, education and communication campaigns will be developed and implemented to promote water safety, water conservation and safe hygiene practices. To this effect, a National Behavioral Change Communication Strategy will be formulated and implemented; and
- (ii) Hygiene promotion will be made an integral component of all water supply programmes.

#### **LAO DPR**

***Water and Water Resources Law, Law No. 02-96/NA of 11 October 1996 (Unofficial Translation)***<sup>674</sup>

#### **Article 29: Water and Water Resources Protection**

[...]

In order to preserve the water resource, the Government will reserve areas and determine protection procedures for all water resources.

#### **Article 30: Water and Water Resource Protected Zones**

The Government will determine Water and Water Resource Protected Zones to ensure adequate supplies of water of sufficient quality to serve the drinking and domestic needs of people in both urban and rural areas. Protected zones shall be delineated with boundary fencing. No development including building, agriculture, industry, extraction of rock, sand or wastewater and the dumping of garbage,

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<sup>673</sup> Available at: <http://www.environment.gov.pk/NEP/DWPolicyOct2009.pdf> (Last visited 26 April 2011)

<sup>674</sup> Available at: <http://faolex.fao.org/docs/pdf/lao7478.pdf>. (Last visited 29 April 2011)

chemicals, mine-tailings or any harmful material will be allowed within the Protected Zone.

In the event the quality and quantity of water available for human consumption is threatened, the Government will extend the area of the Protected Zone and add additional protective measures.

## **BANGLADESH**

***National Policy for Safe Water Supply and Sanitation (Local Government Division Ministry of L.G.R.D & Co-operatives), 1998***<sup>675</sup>

### **3. Objectives**

Within the overall objectives the following specific goals will be targeted for achievement in phases in the near future: ...

ii. Ensuring the installation of one sanitary latrine in each household in the rural areas and improving public health standard through inculcating the habit of proper use of sanitary latrines.

*Note that there is also a National Sanitation Strategy of March 2005.*<sup>676</sup>

## **INDONESIA**

***Government Regulation No. 16/2005 / NA regarding Development of Drinking Water Supply Systems and Sanitation***<sup>677</sup>

### **Section 8: Quality, Quantity and Continuity Standards**

Drinking water obtained from the drinking water supply system and to be distributed to the community/customers should comply with the requirements for the quality and quantity, and pressure requirements if the distribution is using piped network system. The requirements for the quality stipulated in Article (1) is covering physical, chemical, and bacteriological requirements in accordance with quality standards determined by Minister for Health.

The requirement for the quantity stipulated in Article (1) is covering the guarantee for the supply of drinking water in accordance with the minimal basic needs daily, and measurement of the flows and use correctly.

The requirements of the pressure stipulated in Article (1) is to guarantee the continuation of drinking water flow in distribution network system.

## **MALAYSIA**

***Water Services Industry Act (Act 655), 20 July 2006***<sup>678</sup>

### **36. Developing and maintaining water supply system**

(1) It shall be the duty of every service licensee providing water supply services to maintain an efficient and economical water supply system.

(2) A water distribution licensee shall ensure that all arrangements have been made -  
(a) for providing water supply to premises within its water supply distribution area and for making such supply available to persons who demand them; and

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<sup>675</sup> Available at:

[http://www.sdnpsd.org/sdi/international\\_days/wed/2006/bangladesh/documents/national\\_pol\\_safe\\_drinking\\_water\\_sanitation1998.pdf](http://www.sdnpsd.org/sdi/international_days/wed/2006/bangladesh/documents/national_pol_safe_drinking_water_sanitation1998.pdf). (Last visited 26 April 2011)

<sup>676</sup> Available at: [http://www.sanitation-bd.org/downloads/MR11\\_SanitationStrategy.pdf](http://www.sanitation-bd.org/downloads/MR11_SanitationStrategy.pdf). (Last visited 26 April 2011)

<sup>677</sup> Indonesian original available at: <http://www.presidentri.go.id/DokumenUU.php/101.pdf> (Last visited 26 April 2011)

<sup>678</sup> Available at: <http://www.agc.gov.my/Akta/Vol.%2014/Act%20655.pdf> (Last visited 29 April 2011)

(b) for maintaining, improving and extending the water supply system in relation to the distribution of water, such that the water distribution licensee is and continues to be able to meet its obligations under this Act. ...

#### **41. Water quality**

(1) The water distribution licensee shall, when supplying water to any premises, ensure that at the time of supply the quality of water supplied complies with the minimum quality standards as prescribed by the Minister.

(2) The water distribution licensee shall ensure, as far as it is reasonably practicable, in relation to each source or combination of sources from which the licensee supplies water to any premises, that there is no deterioration in the minimum quality standards of the water which is supplied from time to time from that source or combination of sources. ...

### **SRI LANKA**

***The Rural Water Supply and Sanitation Policy (RWSS Policy), 2001***<sup>679</sup>

#### **3.2.5 Quality**

The quality of water supplied, as a basic service should conform to the currently accepted minimum standards with respect to health related microbiological and chemical contaminants.

#### **3.2.7 Safe water supply systems**

[The] [f]ollowing system[s] will be the accepted methods of providing safe drinking water. However, under epidemic or other risk situations, special treatment may be required:

- a) Piped Water Supply System with Adequate Treatment
- b) Deep/Shallow Wells with Hand Pumps.
- c) Protected Dug Wells.
- d) Protected Rainwater catchments Systems

### **SRI LANKA**

***National Policy on Water Supply and Sanitation (WSS Policy), 2002***<sup>680</sup>

#### **3.5 Source protection and water conservation**

##### **Objective**

Adopt a holistic approach for source protection and water conservation to ensure a concerted effort to protect drinking water resources, ensure adequate supply, ... encourage the conservation, reclamation and reuse of water, and minimize the impact of wastewater discharges.

### **SRI LANKA**

***National Water Supply & Drainage Board Corporate Plan 2007-2011***<sup>681</sup>

#### **Goals, Objectives and Strategies**

Goal 1 - Increase the water supply and sanitation coverage  
The second objective is to ensure high degree of water security with respect to quality and quantity for all water supply systems. This will be done by maintaining storage capacities, protecting against saline water intrusion and implementing awareness programmes to protect water sources and intakes.

<sup>679</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 27 April 2011)

<sup>680</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (last visited 2 May 2011)

<sup>681</sup> Available at: <http://www.waterboard.lk/Scripts/htm/Publications/Corporate%20Plan%202007%20-%202011.pdf> (Last visited 28 April 2011)

## **MALAYSIA**

***Water Services Industry Act (Act 655), 20 July 2006***<sup>682</sup>

### **41. Water quality**

(1) The water distribution licensee shall, when supplying water to any premises, ensure that at the time of supply the quality of water supplied complies with the minimum quality standards as prescribed by the Minister.

(2) The water distribution licensee shall ensure, as far as it is reasonably practicable, in relation to each source or combination of sources from which the licensee supplies water to any premises, that there is no deterioration in the minimum quality standards of the water which is supplied from time to time from that source or combination of sources. ...

## **SRI LANKA**

***National Policy on Water Supply and Sanitation (WSS Policy), 2002***<sup>683</sup>

### **3.6 Quality Assurance and Capacity Building**

#### **Strategies**

a. Water quality of service provision shall be monitored by the Water Sector Regulatory Commission or its designate.

b. It shall be the responsibility of service providers to ensure compliance with national drinking water standards.

c. A certification program shall be developed and implemented for water quality testing laboratories of service providers and others.

d. A quality assurance program for construction, materials, and quality shall be developed and implemented for service providers.

## **CHINA**

***Drinking Water Management Act 1972, as last amended January 27, 2006***<sup>684</sup>

### **Chapter 1 General Principles**

**Article 1** This Act is formulated to ensure the quality of drinking water sources, improve public drinking water quality and maintain public health. The regulations of other laws shall apply to those matters not regulated by this Act.

### **Chapter 4 Water Quality Management**

#### **Article 11**

The quality of drinking water shall meet drinking water quality standards.

#### **Article 12**

Public or private premises that provide stationary continuous water supply equipment to the public for drinking shall perform sampling and testing of water quality conditions and keep maintenance records for future reference. The central competent authority shall determine regulations for water quality testing items, frequency, maintenance records, posting, validity period, methods for sample testing of equipment and other binding matters.

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<sup>682</sup> Available at: <http://www.agc.gov.my/Akta/Vol.%2014/Act%20655.pdf> (Last visited 29 April 2011)

<sup>683</sup> Available at: <http://www.waterboard.lk/scripts/ASP/Policies.asp>. (Last visited 27 April 2011)

<sup>684</sup> Available at: <http://law.moj.gov.tw/Eng/LawClass/LawAll.aspx?PCode=O0040010> (Last visited 29 April 2011)



Sampling, testing and analysis of water quality conditions in the foregoing paragraph shall be carried out by an environmental analysis laboratory that has been issued a permit by the central competent authority.

## **CHINA**

### ***Water Law of the People's Republic of China, 2002***<sup>685</sup>

**Article 33** The State establishes a protection system for zones of drinking water sources. The people's governments of provinces, autonomous regions or municipalities directly under the Central Government shall define the drying-up of the water sources and pollution of the water bodies, for the purpose of ensuring town and county residents' safety in respect of drinking water.

**Article 34** Construction of any outlet for sewage discharge in the protection zones of drinking water sources is prohibited.

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<sup>685</sup> Available at: [http://www.gov.cn/english/laws/2005-10/09/content\\_75313.htm](http://www.gov.cn/english/laws/2005-10/09/content_75313.htm). (Last visited 29 April 2011)

## 4. Europe and CIS

### 4.1. Constitutional standards – Europe and CIS

#### 4.1.a. Recognition of the right to safe drinking water and Sanitation

##### Explicit recognition

###### **BELGIUM**

***Constitution, 1994 (Unofficial translation)***<sup>686</sup> with ***Draft Amendment, 5 January 2004 (Unofficial translation)***<sup>687</sup>

###### **Article 23**

Every person has the right to a life in accordance with human dignity.

This is guaranteed by law, decrees and the rules referred to in Article 134, taking into account corresponding obligations, economic, social and cultural rights, and determine the conditions for exercising them.

These rights notably include:

[...]

2° the right to social security, to health care and to social, medical and legal aid;

3° the right to decent housing;

4° the right to protection of a healthy living environment;

5° the right to cultural and social fulfilment.

***Proposal of Draft Amendment, 5 January 2004 (Unofficial translation)***<sup>688</sup>

Single Article

Article 23, paragraph 3 of the Constitution is supplemented as follows:

6° the right to water.

#### 4.1.c. Participation and access to information

###### **UKRAINE**

***Constitution of the Republic of Ukraine, 1996, last amended 8 December 2004***<sup>689</sup>

###### **Article 50**

[...]Everyone is guaranteed the right of free access to information about the environmental situation, the quality of food and consumer goods, and also the right to disseminate such information. No one shall make such information secret.

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<sup>686</sup> Dutch original available at: [http://www.senate.be/doc/const\\_nl.html](http://www.senate.be/doc/const_nl.html) (Last visited 2 May 2011).

<sup>687</sup> Dutch original available at:

<http://www.senate.be/www/webdriver?MltabObj=pdf&MlcolObj=pdf&MlnamObj=pdfid&MltypeObj=application/pdf&MlvalObj=50332290> (Last visited 2 May 2011).

<sup>688</sup> Dutch original available at:

<http://www.senate.be/www/webdriver?MltabObj=pdf&MlcolObj=pdf&MlnamObj=pdfid&MltypeObj=application/pdf&MlvalObj=50332290> At the moment the proposal is pending in the Senate (last update October 2010) See for status: <http://www.senate.be/www/?Mlval=/dossier&LEG=5&NR=230&LANG=nl> (Last visited 2 May 2011).

<sup>689</sup> Available at: <http://www.president.gov.ua/en/content/constitution.html> (Last visited 31 May 2011).

## 4.2. National laws and policies – Europe and CIS

### 4.2.a. Recognition of the right to safe drinking water and sanitation

#### Explicit recognition

##### AUSTRIA

*Vienna Water Charter, 2001 (Unofficial translation)*<sup>690</sup>

##### 5. Ensuring quality instead of maximising profit

The population of Vienna has the right to a high quality of water at adequate conditions.

##### BELARUS

*Law on drinking water supply, Law No. 271-Z of 24 June 1999, as last amended 20 July 2006 (Unofficial translation)*<sup>691</sup>

##### Article 19

The users of drinking water have the right:  
to be provided with drinking water from the centralized and non-centralized drinking water supply systems in accordance with the norms governing drinking water quality and the standards for drinking water consumption;  
[...]

##### Article 31

The Republic of Belarus guarantees each natural person within its territory the provision of drinking water in accordance with the standards for drinking water consumption and the established norms of quality.

The drinking water needs of natural persons in their places of residence is ensured through measures directed at the development of centralised and non-centralised drinking water supply systems, and as well by regulation and control of the drinking water supply in accordance with the requirements of the present law.

Natural persons are guaranteed the right to be provided with drinking water during their stay in public places (such as stations, parks, beaches, etc.); also on transportation means with travel time exceeding three hours, the same right is to be guaranteed by the owners of these objects.

##### BELGIUM

*Decree regulating the provision of drinking water via the piped water system, Council of the Brussels-Capital Region, 8 September 1994 (Unofficial translation)*<sup>692</sup>

##### Article 2

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<sup>690</sup> German original version available at: <https://www.wien.gv.at/wienwasser/versorgung/charta.html>. (Last visited 3 May 2011)

<sup>691</sup> Russian original at: <http://pravo.by/webnpa/text.asp?RN=H19900271>. (Last visited 3 May 2011)

<sup>692</sup> French original version available at: [http://www.juridat.be/cgi\\_loi/loi\\_F.pl?cn=1994090832](http://www.juridat.be/cgi_loi/loi_F.pl?cn=1994090832). (Last visited 2 May 2011)

This decree applies to the provision of potable water as a public service in the Brussels-Capital Region.

It guarantees that every natural person residing in a building designated for habitation, in which a connection has been established, has the right to the provision of potable water for domestic uses.

## **BELGIUM**

***Decree regarding the water cycle and instituting a public water provider, Walloon Regional Council, 15 April 1999 (Unofficial translation)***<sup>693</sup>

### **Article 1**

§ 2. Everyone has the right to access drinking water in a quality and quantity sufficient for nutrition, domestic needs and health. [...]

§ 4. The unequal conditions regarding access to and utilisation of the resource by users must be taken into account in the general policy of the region in accordance with the principle of solidarity.

## **BELGIUM**

***Decree regulating the right to a minimum supply of electricity, gas and water, Parliament of Flanders, 19 December 1996***<sup>694</sup>

### **Article 3**

Every subscriber has the right to a minimum uninterrupted supply of electricity, gas and water for domestic uses in order to live a life in human dignity, oriented at the prevailing standard of living.

## **FRANCE**

***Law No. 2006-1772 on water and aquatic environments of 30 December 2006 (Unofficial translation)***,<sup>695</sup> ***amending the Environment Code***<sup>696</sup>

[...] the use of water belongs to all, and every natural person, for nutrition and hygiene, has the right to have access to drinking water under conditions which are economically acceptable for all.

## **UKRAINE**

***Law of Ukraine on ensuring the sanitary and epidemic safety of the population, Law No. 4004-XII of 24 February 1994, as last amended 07 February 2002***<sup>697</sup>

### **Article 4**

Citizens shall have the following rights to:

foodstuffs, potable water, work conditions, education, up-bringing, household surroundings, recreation, and the environment that are safe for their life and health; [...]

## **Implicit recognition**

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<sup>693</sup> French original version available at: <http://reflex.raadvst-consetat.be/reflex/pdf/Mbbs/1999/06/22/62305.pdf>. (Last visited 2 May 2011)

<sup>694</sup> Dutch original version available at: <http://docs.vlaamsparlement.be/docs/stukken/1996-1997/g442-5.pdf> (Last visited 2 May 2011)

<sup>695</sup> French original at: <http://aida.ineris.fr/textes/lois/text1064.htm>. (Last visited 4 May 2011)

<sup>696</sup> French original available at: <http://www.legifrance.gouv.fr/WAspad/UnCode?code=CENVIROL.rcv>. (Last visited 4 May 2011)

<sup>697</sup> Available at: <http://faolex.fao.org/docs/texts/ukr38311.doc>. (Last visited 3 May 2011)

## **RUSSIAN FEDERATION**

***Law on the sanitary-epidemiological well-being of the population, Law No. 52-FZ of 30 March 1999, as last amended 28 December, 2010 (Unofficial translation)***<sup>698</sup>

### **Article 19**

[...]

3. The population of urban and rural settlements, as a matter of priority, shall be provided with drinking water in a quantity that is sufficient for the satisfaction of physiological and household needs.

## **TAJIKISTAN**

***Law on State Sanitary Supervision, Law No. 987 of 20 July 1994, as last amended 01 February 1996***<sup>699</sup>

### **Article 15: Economic-drinking water supply of the population**

1. The inhabitants of cities and other settlements shall be provided with safe drinking water in sufficient quantities for the satisfaction of physiological and economic needs of humans.

## **THE NETHERLANDS**

***Drinking Water Law, of 19 July 2009, [ (Unofficial Translation)***<sup>700</sup>

### **Article 2**

1. Governing bodies are responsible for securing a sustainable public drinking water supply.

2. Sustainable security of public drinking water supply is an imperative ground of overriding public interest, during the exercise of powers and applying legal rules by the administrative bodies.

## **MOLDOVA**

***Law on the sanitary and epidemiological provision of the population, Law No. 1513-XII of 16 June 1993 (Unofficial Translation)***<sup>701</sup>

### **Article 15: Drinking and household water supply for the population**

(1) The population shall be supplied with drinking water of high quality, as provided by the national standard, and in sufficient quantity for the fulfilment of their physiological and household needs. [...]

## **MOLDOVA**

***Law on Drinking Water, Law No. 272 of 10 February 1999, as last amended 23 December 2009 (Unofficial translation)***<sup>702</sup>

### **Article 4**

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<sup>698</sup> Russian original available at: <http://base.garant.ru/12115118/3/#300> (Last visited 4 May 2011)

<sup>699</sup> Available at: <http://faolex.fao.org/docs/pdf/taj19381E.pdf> (English version prior to amendments);

Russian version with amendments: <http://faolex.fao.org/docs/texts/taj62261.doc>. (Last visited 4 May 2011)

<sup>700</sup> Dutch original available at: [http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum\\_06-05-2011](http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum_06-05-2011) (Last visited 6 May 2011).

<sup>701</sup> Romanian original available at:

[http://www.consumatorul.md/index.php?option=com\\_content&view=article&id=33%3Alegea-privind-asigurarea-sanitaro-epidemiologic-a-populaiei-&catid=2%3AAasigurri&Itemid=6&lang=ro](http://www.consumatorul.md/index.php?option=com_content&view=article&id=33%3Alegea-privind-asigurarea-sanitaro-epidemiologic-a-populaiei-&catid=2%3AAasigurri&Itemid=6&lang=ro) (Last visited 4 May 2011)

<sup>702</sup> Romanian original available at: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=311640> (Last visited 4 May 2011)

The state policy in the field of drinking water supply is based on the following principles:

- a) the responsibility of the State for the provision of the population with potable water according to the established standards of water consumption and the norms of quality;
- b) satisfaction of the need for potable water primarily through the development of the centralized systems of potable water supply, [...]

## **UKRAINE**

***Law of Ukraine on ensuring the sanitary and epidemic safety of the population, Law No. 4004-XII of 24 February 1994, as last amended 07 February 2002***<sup>703</sup>

### **Article 18**

Bodies of executive power, bodies of local self-governments shall ensure that inhabitants of cities and other populated localities are provided with drinking water of quality and in quantities complying with the requirements of sanitary regulations and state standards. [...]

## ***4.2.b. Non-discrimination and attention to vulnerable and marginalised groups***

## **THE NETHERLANDS**

***Drinking Water Law, of 19 July 2009, (Unofficial Translation)***<sup>704</sup>

### **Article 8**

3. The owner of a waterworks company uses tariffs and conditions that are reasonable, transparent and non discriminatory.

## **UNITED KINGDOM**

***Water Act, 1973***<sup>705</sup>

### **Article 30 Water Charges**

(5) A water authority may make different charges for the same service, facility or right in different cases, but it shall be the duty of every water authority to take such steps as will ensure that, as from a date not later than 1st April 1981, their charges are such as not to show undue preference to, or discriminate unduly against, any class of persons.

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<sup>703</sup> Available at: <http://faolex.fao.org/docs/texts/ukr38311.doc>. (Last visited 3 May 2011)

<sup>704</sup> Dutch original available at: [http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum\\_06-05-2011](http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum_06-05-2011) (Last visited 6 May 2011).

<sup>705</sup> Original available at: [http://www.legislation.gov.uk/ukpga/1973/37/pdfs/ukpga\\_19730037\\_en.pdf](http://www.legislation.gov.uk/ukpga/1973/37/pdfs/ukpga_19730037_en.pdf) (Last visited 9 May 2011)

For similar provisions, *see also*:

Protection against disconnection for schools and hospitals, in: Schedule 4AE+W of the *Water Industry Act*, 1991 (As last amended by the Water Industry Act 1999) of the United Kingdom<sup>706</sup>

#### **4.2.c. Participation and access to information**

##### **THE NETHERLANDS**

##### ***Drinking Water Law, of 19 July 2009, (Unofficial Translation)***<sup>707</sup>

###### **Article 21**

3. By or pursuant general administrative measures, notwithstanding the first paragraph, in the interest of the public health, there will be requirements set, on;

The information released by the owner of a water company:

to consumers and other buyers: on the quality of the drinking water;

to consumers and other buyers: in the case the distribution of drinking water can become a threat to the public health.

[...]

to the supervisor: the quality of the drinking water supplied and the measures taken or to be taken to ensure quality;

###### **Article 45**

1. Our Minister shall, by December 31 of each calendar year draft a report on the quality of drinking water during that preceding calendar year.

2. Our Minister shall send the report referred to in the first paragraph, to both Houses of Parliament and shall give notice in the Gazette, specifying the place or places where the report is available for inspection to anyone.

###### **Article 46**

The report referred to in Article 45, contains at least data on the quality of drinking water from the facilities that distribute at an average of more than 1000 m<sup>3</sup> of water per day to consumers or other purchasers or that, measured over a period of one year, on average, more than 5000 people per day use.

##### **ARMENIA**

##### ***Water Code of the Republic of Armenia, 2002***<sup>708</sup>

###### **Article 20: Public Participation**

[...]

(3) In order to get information on the water sector any person is entitled to apply to the appropriate body and to obtain within 30 days that information, except for cases established by the legislation. The procedure for the provision of information shall be established by the Government.

<sup>706</sup> Original available at: <http://www.legislation.gov.uk/ukpga/1991/56/contents>, Last amended in 1999 by the Water Industry Act 1999, available at: <http://www.legislation.gov.uk/ukpga/1999/9/contents> (Last visited 5 May 2011)

<sup>707</sup> Dutch original available at: [http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum\\_06-05-2011](http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum_06-05-2011) (Last visited 6 May 2011).

<sup>708</sup> Original available at: [http://www.parliament.am/law\\_docs/290602HO373eng.pdf?lang=eng](http://www.parliament.am/law_docs/290602HO373eng.pdf?lang=eng). (Last visited 4 May 2011)

Article 106: Participation of non-governmental organizations and citizens in the protection of water resources and water systems

Non-governmental organizations and citizens are entitled to participate in the discussions relevant to the water resources and water systems and provide comments by procedures established by legislation.

In the conduct of activities aimed at the protection of water resources and water systems the state authorized management bodies [have] a right to take into consideration the recommendations of public organizations and citizens.

## **BELARUS**

***Water Code of the Republic of Belarus, Law No. 191-3 of 15 July 1998, as last amended 13 June 2007 (Unofficial translation)***<sup>709</sup>

### **Article 11. Rights and responsibilities of citizens and public associations in the use and protection of water**

Citizens and public associations have the following rights, established in due order, in the field of water use and conservation:

- take part in the discussions of local councils of deputies, on public administration issues related to water usage and protection;
- participate in activities on durable use and protection of water resources;
- [...]
- exercise social control over water usage and protection mechanisms;
- receive in accordance with the laws of the Republic of Belarus ecological information on the use and protection of water;

### **Article 37**

[...]

Water consumers have the right to demand from the owner of water (water-supplier) information on the quality of the potable water used for the satisfaction of drinking and household needs.

## **BELARUS**

***Law on drinking water supply, Law No. 271-Z of 24 June 1999, as last amended 20 July 2006 (Unofficial translation)***<sup>710</sup>

### **Article 34**

Information on the quality of potable water is provided to applicants free of charge without delay on first application, or to all consumers of potable water through mass media or by another method in the cases indicated in the second part of present article.

In the cases of detection of the nonconformity of the quality of potable water with normative requirements, which can cause a threat to the health of natural persons, the owners of the systems of potable water supply, potable water supply companies and the organs of state sanitary supervision are obliged to inform the users of potable water about this immediately[...]

## **KYRGYZSTAN**

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<sup>709</sup> Russian original available at: <http://pravo.by/webnpa/text.asp?RN=HK9800191> (Last visited 3 May 2011)

<sup>710</sup> Russian original at: <http://pravo.by/webnpa/text.asp?RN=H19900271>. (Last visited 3 May 2011)



***Water Code of the Kyrgyz Republic, Law No. 8 of 12 January 2005***<sup>711</sup>

**Article 6: Principles for the management of water resources**

The management of water resources is based on the following principles:

[...]

Principle of Openness – Information on the condition and use of water bodies and water resources should be accessible to the public.

**Article 21: Rights and duties of water users**

[...]

4. Water users have the right: [...]

to information concerning the quantity, quality and use of water resources in accordance with the provisions of this Code; [...]

**Article 93: Content of the Single Water Information System**

The Single Water Information System comprises:

the Register of Water User Permissions and Special Water Use Permissions;

the Register Permissions on discharge of wastes and polluted matters to water bodies, water economy constructions and lands of water funds;

the State Water Cadastre;

other information identified by the Government of the Kyrgyz Republic.

**Article 96: Public access to information systems**

The representatives of the public shall have access to the Single Information System except cases identified in item 2 of Article 97.

**KYRGYZSTAN**

***Law on drinking water, Law No. 33 of 25 March 1999, as last amended 20 July 2009 (Unofficial translation)***<sup>712</sup>

**Article 19**

Consumers of drinking water supplied by the systems for household drinking water supply have the right to demand from the suppliers adequate information about the quality of drinking water; its conformity with prescribed standards, sanitary rules and regulations, and the certificate of conformity. [...]

On identification of the nonconformity of the water quality with specific parameters, evidencing a threat to public health, the suppliers of water and controlling bodies must ensure the immediate notification of water consumers through the media together with information about precautionary measures that can prevent the emerging danger. [...]

**CROATIA**

***Water Management Act, (Unofficial Translation )1995***<sup>713</sup>

**Article 117.**

Water-related documents are kept and used in accordance with the publicity principle.

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<sup>711</sup> Available at: <http://faolex.fao.org/docs/texts/kyr49854E.doc>. (Last visited 4 May 2011)

<sup>712</sup> Russian version available at: [http://www.base.spininform.ru/klview.fwx?razdel=6&klsid=\\_000000097](http://www.base.spininform.ru/klview.fwx?razdel=6&klsid=_000000097) (Last visited 4 May 2011)

<sup>713</sup> Available at:

<http://www.ecolex.org/ecolex/ledge/view/RecordDetails;DIDPFDSIjsessionid=F87E7569862D7130EBA2B9C6DE0C29F5?id=LEX-FAOC081382&index=documents> (Last visited 9 May 2011)

Any person has the right to require and obtain any data from water-related documents upon payment of a corresponding compensation for the costs of the data transcripts.

## **LATVIA**

***Law on Water Management, 1 October 2002 (Unofficial Translation)***<sup>714</sup>

### **Article 6: Rights of the user of water resources**

The users of water resources shall have the following rights:

[...]

4) to receive information about the environmental objectives established for water bodies, production of management plans and programmes of measures and to take part in the public consultation on the management plans.

### **Article 23: Information to the general public**

(1) The State Geology Survey shall encourage active involvement of general public in the implementation of this Law, in particular, in the development, review and updating of the river basin management plans, ensuring that, for each river basin district, the following information is published and made available for comments to the public, including water users:

1) a timetable and work programme for the production of the plan, including a statement of the measures for involvement of the public to be taken - at least three years before the beginning of

the period to which the plan refers;

2) an overview of the significant water management issues identified in the particular river basin district - at least two years before the beginning of the period to which the plan refers;

3) draft copies of the management plan - at least one year before the beginning of the period to which the plan refers.

(2) Upon request of any natural or legal person the State Geology Survey and other involved institutions shall give access to the background documents and information used for the production of the draft management plan.

(3) In order to allow active public involvement and consultation, the time for comments on the documents referred to in Paragraph one, shall be at least six months.

## **SPAIN**

***Spanish Water Law 1985 (Revised 2001)***<sup>715</sup>

### **Article 15. Right to information.**

1. All natural or legal persons are entitled to have access to information on water in the terms established by Law 38/95 of 12 December on the right to information in environmental matters and in particular information on discharges and water quality.

### **Article 46.**

Reports and periodic reviews are made public.

## **TURKMENISTAN**

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<sup>714</sup> Available at: <http://faolex.fao.org/docs/texts/lat42197.doc>. (Last visited 5 May 2011)

<sup>715</sup> Spanish original available at: [http://www.meliaproject.eu/melia-eu-member-states-ms-area/copy2\\_of\\_workgroup.wp0/workgroup-documents-library/ley-de-aguas-espanola](http://www.meliaproject.eu/melia-eu-member-states-ms-area/copy2_of_workgroup.wp0/workgroup-documents-library/ley-de-aguas-espanola) (Last visited 5 May 2011)

**Water Code, 1 November 2004 (Unofficial translation)<sup>716</sup>**

**Article 21**

[...]

Water consumers have the right to request the water supplier information about the quality of drinking water. [...]

**FINLAND**

***Water Services Act (119/2001)*<sup>717</sup>**

**Section 6: Organisation of water services**

(1) The owner or occupier of a property is responsible for its water services as laid down in this Act and other law.

(2) When required due to the need of a relatively large number of inhabitants or health considerations or environmental protection, a municipality must make sure that appropriate measures are taken to establish a water supply plant to meet the need, to expand the area of operation or to otherwise secure the availability of sufficient water services.

(3) Before taking the measures referred to in subsection 2, the municipality must reserve an opportunity for property owners and occupiers in the area to be heard.

**KYRGYZSTAN**

***Water Code of the Kyrgyz Republic, Law No. 8 of 12 January 2005*<sup>718</sup>**

**Article 6: Principles for the management of water resources**

The management of water resources is based on the following principles:

Participatory Principle – All interested stakeholders should participate in planning and decision-making processes;

[...]

Principle of Openness – Information on the condition and use of water bodies and water resources should be accessible to the public.

**Article 21: Rights and duties of water users**

[...]

4. Water users have the right: [...]

to participate in decision making on water resource management; ...

For similar provisions, see also:

Article 62 of the *Water Code of the Republic of Kazakhstan, Law No. 481-2 of 09 March 2003*, as last amended 27 July 2007<sup>719</sup>

**RUSSIAN FEDERATION**

***Water Code of the Russian Federation, Law No. 74-FZ of 3 June 2006, as last amended 23 July 2008 (Unofficial translation)*<sup>720</sup>**

**Article 3**

<sup>716</sup> Russian original available at: [http://www.turkmenistan.gov.tm/\\_ru/laws/?laws=01bm](http://www.turkmenistan.gov.tm/_ru/laws/?laws=01bm) (Last visited 5 May 2011)

<sup>717</sup> Finish original available at: <http://www.finlex.fi/fi/laki/ajantasa/2001/20010119> (Last visited 5 May 2011)

<sup>718</sup> Available at: <http://faolex.fao.org/docs/texts/kyr49854E.doc>. (Last visited 4 May 2011)

<sup>719</sup> Original Russian version at: <http://www.pavlodar.com/zakon/?dok=02874&ogl=all>. (Last visited 5 May 2011)

<sup>720</sup> Available at: <http://chuvashia.fas.gov.ru/page.php?id=139> (Last visited 4 May 2011)

The water legislation and normative acts adopted in accordance with this legislation are based on the following principles:

[...]

6) participation of citizens and public associations in resolution of the questions which concern rights to water objects, and also their duties on protection of water objects. Citizens and public associations have the right to participate in the decision making process and the implementation which can affect water objects in their use and protection.

Government bodies, institutions of local government, subjects of economic and other activity are obligated to ensure the possibility of such participation in the order and in the forms established by the legislation of the Russian Federation.

## **RUSSIAN FEDERATION**

***Law on the sanitary-epidemiological well-being of the population, Law No. 52-FZ of 30 March 1999, as last amended 28 December, 2010 (Unofficial translation)***<sup>721</sup>

### **Article 8**

Citizens have the right: [...]

- to obtain, in accordance with the legislation of the Russian Federation, from organs of state, organs of local governments, the organs carrying out state sanitary-epidemiological supervision, and from legal persons, information on the sanitary-epidemiological situation, the state of the living environment, quality and safety of industrial and technological production, foodstuffs, goods for personal and household needs, and potential health hazards related to works carried out and services performed;

- to exercise public control over the fulfilment of sanitary regulations;

- to bring to the organs of state, the organs of local governments, and the organs carrying out public sanitary-epidemiological supervision, proposals on the realisation of the sanitary-epidemiological well-being of the population; [...]

## **UZBEKISTAN**

***Law on Water and Water Use, Law No. 837-XII of 6 March 1993***<sup>722</sup>

### **Article 10: Participation of public associations, collectives and individuals in the conduct of arrangements relating to the rational utilization and protection of water**

Public associations and collectives, in accordance with their respective charters, shall assist the state organs in the implementation of arrangements relating to the rational utilization and protection of water.

The state organs shall consider the proposals of public associations, collectives and individuals when carrying out these arrangements.

## **4.2.d. Accountability**

## **ARMENIA**

***Water Code of the Republic of Armenia, 2002***<sup>723</sup>

<sup>721</sup> Russian original available at: <http://base.garant.ru/12115118/3/#300> (Last visited 4 May 2011)

<sup>722</sup> Available at: <http://faolex.fao.org/docs/pdf/uzb5255E.pdf>. (Last visited 5 May 2011)

<sup>723</sup> Available at: [http://www.parliament.am/law\\_docs/290602HO373eng.pdf?lang=eng](http://www.parliament.am/law_docs/290602HO373eng.pdf?lang=eng). (Last visited 4 May 2011)

## **Article 120: Specifics of Operation of Potable Water Supply and Wastewater Systems**

[...]

- The use of the water resources, meeting the quality standards of potable water, for drinking, household and residential, and health needs shall be considered top priority;
- The potable, household and residential water supply systems shall be classified as highly important life supporting objects; [...]

The Water Authority shall be able to obligate the licensee to employ or apply all the methods judged necessary to ensure the established quality.

## **FINLAND**

***Water Services Act (119/2001)***<sup>724</sup>

### **Section 22: General supply conditions**

- (1) The general supply conditions for water services must be fair and equitable.
- (2) The Consumer Ombudsman will control the compliance with the law of the general supply conditions in respect of consumer protection.

### **Section 28: Compensation for damage**

- (1) A water supply plant is obliged to compensate for damages due to an error in water services to a person or property intended for private use or consumption and mainly used for such purpose by the party suffering the damage. A condition included in a contract made before the damage was found which restricts the right of the party suffering the damage to compensation under this subsection is null and void.
- (2) A water supply plant is obliged to compensate for financial loss to the customer due to an error in water services. A water supply plant is obliged to compensate for indirect damage only if the error or damage is caused by negligence of the plant[...]

## **ARMENIA**

***Law of the Republic of Armenia on provision of sanitary-epidemiological security of the population, 1992***<sup>725</sup>

### **Article 10: Rights and liabilities of citizens on provision of sanitary-epidemiological security**

The citizens have the rights to:

[...]

- 4) Receive reimbursement for the harm caused to their health as a result of violation of the sanitary regulation, according to statutes defined by the Government of the Republic of Armenia[...]

### **Article 11: Guarantees for exercising the rights of the enterprises, institutions and organizations**

The enterprises, institutions and organizations acting in the area of the Republic of Armenia, as well as citizens have the rights to lodge complaints against the actions and/or inactivity of the State officials that have resulted or can result in limitation of

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<sup>724</sup> Finish original available at: <http://www.finlex.fi/fi/laki/ajantasa/2001/20010119> (Last visited 5 May 2011)

<sup>725</sup> Available at: <http://faolex.fao.org/docs/texts/arm47094E.doc>. (Last visited 4 May 2011)

their rights, according to the 9<sup>th</sup> and 10<sup>th</sup> articles of this law [dealing, inter alia, with participation and access to information].

The complain[t] is transferred to the superior instance and then to the People's Court, according to the statutes defined by the Law of the Republic of Armenia.

## **BELARUS**

***Water Code of the Republic of Belarus, Law No. 191-3 of 15 July 1998, as last amended 13 June 2007 (Unofficial translation)***<sup>726</sup>

### **Article 11**

Citizens and public associations have the following rights, established in due order, in the field of water use and conservation:

[...]

to bring actions in a court of law for the compensation of damages caused by the interference with the rights of citizens resulting from the contamination or blockage of waters.

## **KYRGYZSTAN**

***Law on drinking water, Law No. 33 of 25 March 1999, as last amended 20 July 2009 (Unofficial translation)***<sup>727</sup>

### **Article 19**

[...]

Bodies for the protection of the rights of consumers at the local State administration, and public consumer organisations can cooperate with State organs for sanitary-epidemiological supervision and the organs of standardisation, meteorology and certification in the implementation of control of the quality of potable water, the collection and the data analysis from the population about the claims for its quality; to bring action to the court regarding compensation for damage occurred as a result of the consumption of the water which does not meet the required quality standards, and the violation of the rights of users in the field of domestic potable water supply of the population.

## **4.2.e. Accessibility of water and sanitation**

## **BELGIUM**

***Decree regarding the tariffication and general conditions of the public distribution of water in the Walloon region, 12 February 2004 (Unofficial translation)***<sup>728</sup>

### **Article 2**

Any person holding an interest in immovable property is entitled, upon own requests and own expenses, to connect the property to the public water supply network. Any extension of the network necessary for the connection of this property is at the expense of the requester [...]

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<sup>726</sup> Russian original available at: <http://pravo.by/webnpa/text.asp?RN=HK9800191> (Last visited 4 May 2011)

<sup>727</sup> Russian version available at: [http://www.base.spinform.ru/klview.fwx?razdel=6&klsid=\\_000000097](http://www.base.spinform.ru/klview.fwx?razdel=6&klsid=_000000097) (Last visited 4 May 2011)

<sup>728</sup> French original version available at: <http://environnement.wallonie.be/LEGIS/eau/eaali009.htm>. (Last visited 2 May 2011)

## **SPAIN**

### ***Spanish Water Law 1985 (Revised 2001)***<sup>729</sup>

#### **Article 50.** Common uses.

1. Everyone can, without official authorization and in accordance with the provisions of the laws and regulations, use the surface waters, as they run their natural courses, for drinking, bathing and other domestic purposes and for watering livestock.

#### **Article 92.** Objectives of protection.

The objectives of water protection and public water:

- \* B) Promote sustainable water use to protect available water resources and ensuring an adequate supply in good condition.

## **AZERBAIJAN**

### ***Water Code of the Azerbaijan Republic, 1997***<sup>730</sup>

#### **Article 36: Using water bodies for common purposes**

Water bodies for common use shall be those water bodies that are open and available for everybody's use. Natural persons shall use such water bodies free of charge for their own needs (... watering cattle, taking water without using technical devices, etc).

## **GEORGIA**

### ***Water Law, Law No. 936-Ic of 1997 (Unofficial translation)***<sup>731</sup>

#### **Article 32**

1. The common use of water is carried out with a view of satisfying non-industrial, personal drinking- , household- , [...] needs without the application of constructions and devices that have an effect on the state of water. [...]
3. The common use of water is free [...]

## **LATVIA**

### ***Law on Water Management, 1 October 2002 (Unofficial Translation)***<sup>732</sup>

#### **Article 17: Recovery of costs for use of water resources**

(1) Natural and legal persons shall have the right to [...] use free of charge water resources for [...] personal needs, where the amount of water abstracted for personal needs does not exceed the limits fixed by the Cabinet of Ministers.

## **RUSSIAN FEDERATION**

### ***Water Code of the Russian Federation, Law No. 74-FZ of 3 June 2006, as last amended 23 July 2008 (Unofficial translation)***<sup>733</sup>

#### **Article 6**

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<sup>729</sup> Spanish original available at: [http://www.meliaproject.eu/melia-eu-member-states-ms-area/copy2\\_of\\_workgroup.wp0/workgroup-documents-library/ley-de-aguas-espanola](http://www.meliaproject.eu/melia-eu-member-states-ms-area/copy2_of_workgroup.wp0/workgroup-documents-library/ley-de-aguas-espanola) (Last visited 5 May 2011)

<sup>730</sup> Russian available at: [http://www.cawater-info.net/library/rus/water/water\\_azerbaijan.pdf](http://www.cawater-info.net/library/rus/water/water_azerbaijan.pdf) (Last visited 5 May 2011)

<sup>731</sup> Russian available at: [http://www.cawater-info.net/library/rus/water/water\\_georgia.pdf](http://www.cawater-info.net/library/rus/water/water_georgia.pdf) (Last visited 5 May 2011)

<sup>732</sup> Available at: <http://faolex.fao.org/docs/texts/lat42197.doc>. (Last visited 5 May 2011)

<sup>733</sup> Available at: <http://chuvashia.fas.gov.ru/page.php?id=139> (Last visited 4 May 2011)

1. Surface water objects, which are owned by the State or Municipality, are water objects of general use, which are available for public use, except when this use is contrary to the present code.
2. Each citizen has the right to have access to the water objects of general use and use them for personal and household needs free of charge, except when this use is contrary to the present code, or other federal laws.

## **TAJIKISTAN**

***Water Code of the Republic of Tajikistan, 29 March 2000, as last amended 3 March 2006***<sup>734</sup>

### **Article 31: Fees for water use**

General water use in RT [Republic of Tajikistan] is free of charge.

## **BELARUS**

***Decision No. 724 of the Council of Ministers of Republic Belarus “On measures for the establishment of a system of state social service standards for the population of the Republic,” 2003 (Unofficial translation)***<sup>735</sup>

### **Appendix:**

System for state social service standards for the population of the Republic:

10. Availability of public toilet facilities in the cities and the urban settlements  
- no less than one per thousand people.

## **CROATIA**

***Water Management Act, (Unofficial Translation) 1995***<sup>736</sup>

### **Article 26.**

Everybody shall be allowed, in accordance with the regulations, to use water in the ordinary way that does not require specific devices and does not exclude others from the same use (general water use).

General water use includes in particular:

1. Water intake, without special devices, from watercourses and other natural sources, for drinking, sanitary and other personal household purposes;
2. the use of water in rivers, lakes and other surface water bodies, for bathing and recreation.

For similar provisions, *see also*:

*Finland, Water Services Act (119/2001) Section 6.*<sup>737</sup>

## **4.2.f. Affordability of water and sanitation**

<sup>734</sup> Available at: <http://faolex.fao.org/docs/pdf/taj34375E.pdf>. (Last visited 4 May 2011)

<sup>735</sup> Russian original available at: <http://www.lawbelarus.com/repub/sub10/teb8911.htm>. (Last visited 4 May 2011)

<sup>736</sup> Available at:

<http://www.ecolex.org/ecolex/ledge/view/RecordDetails;DIDPFDSIjsessionid=F87E7569862D7130EBA2B9C6DE0C29F5?id=LEX-FAOC081382&index=documents> (Last visited 9 May 2011)

<sup>737</sup> Finish original available at: <http://www.finlex.fi/fi/laki/ajantasa/2001/20010119> (Last visited 5 May 2011)



## BELGIUM

***Note: Although the governing of water is mostly concentrated on the regional level, the federal government however always decides the maximum prices for the distribution of water.***<sup>738</sup>

### **Walloon region:**

*The current tariff system aims to implement European requirements, which set a framework for Community policies on water by establishing the notion of real costs, it also aims to meet the requests of the Walloon government to equalize the different water prices in the Walloon area. For drinking water there is a progressive block tariff system, that is, the more one consumes, the higher the cost of the water they consume.*

*The first block of 30m<sup>3</sup> per household and per year, the second block is broad, it covers up to 5000 m<sup>3</sup>. An extra contribution to the Social Fund will be calculated into all scales.*<sup>739</sup>

### **Flemish region:**

***Article 34 of the Decree of the Flemish Council of 20 December 1996, amending the 1933 Law on the Protection of Drinking Water (Unofficial translation)***<sup>740</sup>

***Article 1 bis: Special provisions for the Flanders region with regard to drinking water supply***

*[...]*

§ 3. The municipalities, communal enterprises, intercommunal associations, and all other enterprises responsible for public water supply, are obligated, from 1 January 1997 on, to provide all households connected to the public water grid, per annum, with 15 m<sup>3</sup> of tap water per person residing at the address of the connection to the public water grid free of charge.

## BELGIUM

### **Brussels-Capital Region:**

***Social Fund for Water***<sup>741</sup>

*In 1998, the inter-municipal utility company established a Social Fund for Water to provide financial assistance to people having difficulties paying their water bills. The fund is managed in cooperation with the O.C.M.W.s [Public Welfare Centres] of the 19 municipalities of the Brussels-Capital Region.*

## BELGIUM

***Decree regulating the right to a minimum supply of electricity, gas and water, Parliament of Flanders, 19 December 1996 (Unofficial Translation)***<sup>742</sup>

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<sup>738</sup> For more information, see: [http://economie.fgov.be/nl/consument/Gereguleerde\\_prijzen/Waterdistributie/](http://economie.fgov.be/nl/consument/Gereguleerde_prijzen/Waterdistributie/) (Last visited 2 May 2011)

<sup>739</sup> For more information, see: [http://economie.fgov.be/nl/consument/Gereguleerde\\_prijzen/Waterdistributie/](http://economie.fgov.be/nl/consument/Gereguleerde_prijzen/Waterdistributie/) (Last visited 2 May 2011)

<sup>740</sup> French original version at:

[http://www.juridat.be/cgi\\_loi/loi\\_a1.pl?language=fr&caller=list&cn=1996122037&la=f&fromtab=loi&sql=dt='decret+conseil+flamand'&tri=dd+as+rank&rech=1&numero=1](http://www.juridat.be/cgi_loi/loi_a1.pl?language=fr&caller=list&cn=1996122037&la=f&fromtab=loi&sql=dt='decret+conseil+flamand'&tri=dd+as+rank&rech=1&numero=1). (Last visited 2 May 2011)

<sup>741</sup> Dutch/French version available at: <http://www.weblex.irisnet.be/data/arccc/bqr/2001-02/00006/images.pdf>. (Last visited 3 May 2011)

<sup>742</sup> 'Decreet tot regeling van het recht op minimumlevering van elektriciteit, gas en water'. Dutch original version available at: <http://docs.vlaamsparlement.be/docs/stukken/1996-1997/g442-5.pdf> (Last visited 3 May 2011)

## Article 8

The costs for a minimum supply of electricity, water and gas in accordance with the provisions of this decree are to be borne by the relevant provider.

## BELGIUM

***Decree regarding the establishment of a tax on the disposal of waste water, Council of the Brussels-Capital Region, 29 March 1996 (Unofficial translation)***<sup>743</sup>

### Article 7

Persons will be exempted from the levy on the wastewater when they are part of the Public Social Welfare, or when they can declare that their incomes are equal or less than the minimum, or those who declare under the conditions set by the government that they, in accordance with Article 6, supply water to persons in similar households. The Ministry can declare a person free of levies on the basis of information from the Public Social Welfare, or on the request of that person him/herself. [...]

## IRELAND

***Local Government (Financial Provisions) Act, No. 29/1997***<sup>744</sup>

**Section 12: Removal of power of local authorities to make charges for supply of water for domestic purposes, etc.**

(2) Section 65A of the 1878 Act is hereby amended by -

(a) the substitution of the following subsections for subsections (1), (1A) and (1B):

(1) A sanitary authority may make charges for water supplied, whether within or outside their functional area, by them, but after the 31st day of December, 1996, a sanitary authority may not make a charge for a supply by them of water for domestic purposes.

## LITHUANIA

***Law on cash social assistance for low-income families (single residents), Law No. IX-1675 of 1 July 2003***<sup>745</sup>

**Article 6: Entitlement of families (single residents) to compensations**

1. Families (single residents) shall be entitled to compensations provided they comply with the conditions set out in subparagraph 1 of this paragraph and at least one of the conditions set out in subparagraphs 2-4 of this paragraph, and each of the family members (single resident) over 18 years of age complies with at least one of the conditions laid down in subparagraphs 5, 6 and 7 of this paragraph, and the children between 16 and 18 years of age comply with at least one of the conditions laid down in subparagraph 8 of this paragraph: [...]

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<sup>743</sup> See

[http://www.juridat.be/cgi\\_loi/loi\\_a.pl?language=nl&caller=list&cn=1996032931&la=n&fromtab=wet&sql=dt='ordonnantie%20\(brussel\)'\&tri=dd+as+rank&rech=1&numero=1](http://www.juridat.be/cgi_loi/loi_a.pl?language=nl&caller=list&cn=1996032931&la=n&fromtab=wet&sql=dt='ordonnantie%20(brussel)'\&tri=dd+as+rank&rech=1&numero=1). Note: the decree has been repealed by article 70 of ORD 2006-10-20/35, which withdraws the levy on wastewater. It however only has its effect of a yet to determine date, meaning that it is still in force. See: [http://suisse.juridat.be/cgi\\_loi/loi\\_N.pl?cn=2006102035](http://suisse.juridat.be/cgi_loi/loi_N.pl?cn=2006102035) (Last visited 3 May 2011)

<sup>744</sup> Available at: <http://achtanna.oireachtas.ie/en.act.1997.0029.1.html#sec12> (Last visited 5 May 2011)

<sup>745</sup> Available at: [http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_e?p\\_id=253464&p\\_query=tariff%20water&p\\_tr2=2](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=253464&p_query=tariff%20water&p_tr2=2). (Last visited 5 May 2011)

3) costs of the factual quantity of cold water and sewage, but not exceeding the ratio established in Article 7 of this Law, exceed 2% of the income of a family (single resident);

4) costs of the factual quantity of hot water and sewage, but not exceeding the ratio established in Article 7 of this Law, when the centralized heating supply system is used to produce hot water, or costs of other energy or fuel used to produce the standard quantity of hot water as fixed in Article 7 of this Law exceed 5% of the income of a family (single resident); [...]

#### **Article 7: Ratios for calculating compensations**

1. The following ratios shall apply in calculating compensations: [...]

2) hot water and sewage – 1.5 cubic meter for a family member (single resident) per month;

3) cold water and sewage – 2 cubic meters for a family member (single resident) per month, when centralized heating supply system is used to produce hot water, or 3.5 cubic meters for a family member (single person) per month, when other types of energy or fuel are used to produce hot water.

#### **Article 8: The amount of compensations**

1. Families (single residents) shall be entitled to the following compensations, by applying a one-part tariff of heat (electric energy): [...]

2) part of the costs of the factual quantity of cold water and sewage, but not exceeding the ratio set in Article 7 of this Law, exceeding 2% of the income of a family (single resident);

3) part of the costs related to the factual quantity used to produce hot water, but not exceeding the ratio set in Article 7 of this Law, exceeding 5% of the income of the family (single resident). The costs related to the production of hot water shall include the consumption of energy or fuel to heat water, not exceeding the set ratio, and the consumption of energy or fuel, [...] to a dwelling, to maintain the temperature of hot water (circulation). When hot water is produced by using centralized heat supply, costs related to the production of hot water shall also cover the costs of cold water used to produce hot water (including the costs of sewage).

## **THE NETHERLANDS**

***Drinking Water Law, of 19 July 2009, (Unofficial Translation)<sup>746</sup>***

*Article 9*

***The owner of a water company will lead a policy which is aimed at preventing the disconnection of a small scale user.***

***Ministerial regulations will set rules on the disconnection of the supply of drinking water to small scale users, and on the measures to prevent the disconnection of small scale consumers as much as possible.***

For similar provisions, see also:

Article 8 of the Dutch Drinking Water Law, of 19 July 2009<sup>747</sup>

<sup>746</sup> Dutch original available at: [http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum\\_06-05-2011](http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum_06-05-2011) (Last visited 6 May 2011).

<sup>747</sup> Dutch original available at: [http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum\\_06-05-2011](http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum_06-05-2011) (Last visited 6 May 2011).

## **BELGIUM**

***Decree regulating the right to a minimum supply of electricity, gas and water, Parliament of Flanders, 19 December 1996***<sup>748</sup>

### **Article 6**

The service provider can only disconnect the minimum supply of electricity, gas or water in the following cases: [...]

2° in case of evident unwillingness or fraud of the subscriber, after the local advisory committee, referred to in article 7, issued an advice in which it reaches the same conclusion.

### **Article 7**

A local advisory committee, the composition of which shall be determined by the Government of Flanders, shall be formed in every municipality.

The local advisory committee shall within fourteen days after reception of the request and after conduction of an investigation issue a motivated advice about, according to the case:

1° the request of the provider to disconnect the provision of the minimum supply of electricity, gas or water for evident unwillingness or fraud of the subscriber;

## **UNITED KINGDOM**

***Flood and Water Management Act (c. 29), 2010***<sup>749</sup>

### **44 Social tariffs**

(1) An undertaker's charges scheme under section 143 of the Water Industry Act 1991 may include provision designed to reduce charges for individuals who would have difficulty paying in full.

## **UNITED KINGDOM**

***Water Industry Act, 1991 (As last amended by the Water Industry Act 1999)***<sup>750</sup>

### **Section 61: Disconnections for non-payment of charges**

(1) Subject to the following provisions of this section, a water undertaker may disconnect a service pipe which for the purposes of providing a supply of water to any premises is connected with any water main of that undertaker, or may otherwise cut off a supply of water to any premises, if the occupier of the premises-

a) is liable (whether in his capacity as occupier or under any agreement with the undertaker) to pay charges due to the undertaker in respect of the supply of water to those premises; and

b) has failed to do so before the end of the period of seven days beginning with the day after he is served with notice requiring him to do so.

(1A) The power conferred by subsection (1) above is not exercisable in relation to premises specified in Schedule 4A.

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<sup>748</sup> Dutch original version available at: <http://docs.vlaamsparlement.be/docs/stukken/1996-1997/g442-5.pdf> (last visited 3 May 2011)

<sup>749</sup> Original available at: [http://www.legislation.gov.uk/ukpga/2010/29/pdfs/ukpga\\_20100029\\_en.pdf](http://www.legislation.gov.uk/ukpga/2010/29/pdfs/ukpga_20100029_en.pdf) (Last visited 5 May 2011)

<sup>750</sup> Original available at: <http://www.legislation.gov.uk/ukpga/1991/56/contents>, Last amended in 1999 by the Water Industry Act 1999, available at: <http://www.legislation.gov.uk/ukpga/1999/9/contents> (Last visited 5 May 2011)

#### **Schedule 4AE+W Premises that are not to be disconnected for non-payment of charges**

1. (1) Any dwelling which is occupied by a person as his only or principal home. ...
2. (1) Any house in multiple occupation which does not constitute a dwelling within the meaning of paragraph 1 above and in which any person has his only or principal home[...]
3. (1) Accommodation for the elderly in which a person has his only or principal home.  
(2) In this paragraph "accommodation for the elderly" means residential accommodation to which sub-paragraph (3) or (4) below applies, but which is not a dwelling within the meaning of paragraph 1 above or a house in multiple occupation within the meaning of paragraph 2 above.  
(3) This sub-paragraph applies to residential accommodation-  
(a) which is particularly suitable, having regard to its location, size, design, heating systems and other features, for occupation by elderly persons,  
(b) which it is the practice of the landlord to let for occupation by persons aged 60 or more, and  
(c) where the services of a warden are provided.  
(4) This sub-paragraph applies to any building or part of a building designed or adapted for use as residential accommodation for elderly persons.
4. A hospital [...]
5. Premises used for the provision of medical services by a registered medical practitioner.
6. Premises used for the provision of dental services by a person who under the Dentists Act 1984 is permitted to practise dentistry[...]
- 8 - (1) A residential care home, nursing home or mental nursing home [...]
9. - (1) A children's home [...]
10. A school [...]
11. - (1) Premises used by an institution within the further education sector or an institution within the higher education sector for, or in connection with, the provision of education [...]
12. Premises used for the provision of day care for children by a person who is registered under section 71(1)(b) of the Children Act 1989 in respect of the premises.
13. - (1) A prison or detention centre [...]
14. Premises occupied for the purposes of a police force.
15. Premises occupied for the purposes of a fire brigade [...]
16. Premises occupied for the purposes of the provision of an ambulance service [...]

#### **Article 63A: Prohibition on the Use of Limiting Devices**

- (1) A water undertaker shall be guilty of an offence under this section if it uses a limiting device in relation to any premises specified in Schedule 4A to this Act, with the intention of enforcing payment of charges which are or may become due to the undertaker in respect of the supply of water to the premises.
- (2) For the purposes of this section "a limiting device", in relation to any premises, means any device or apparatus which—  
(a) is fitted to any pipe by which water is supplied to the premises or a part of the premises, whether that pipe belongs to the undertaker or to any other person, and  
(b) is designed to restrict the use which may be made of water supplied to the premises by the undertaker.

(3) An undertaker does not commit an offence under this section by disconnecting a service pipe to any premises or otherwise cutting off a supply of water to the premises.

(4) An undertaker guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **4.2.g. Water availability and allocation**

### **BELARUS**

***Law on the sanitary and epidemic well-being of the population, Law No. 2583-XII of 23 November 1993, as last amended 16 May 2006***<sup>751</sup>

#### **Article 30: Drinking and Domestic Water Supply Requirements for the Needs of the Population**

The residents of the cities and other inhabited localities shall be supplied with an amount of water that is sufficient satisfy drinking and domestic needs.

The quality of water used for drinking and domestic needs [...] must meet the standards and sanitary rules.

Organizations and natural persons, including individual entrepreneurs that carry out the drinking water supply, in cases when its quality does not meet the standards and sanitary rules must stop its distribution to consumers and immediately inform the bodies and institutions that perform the state sanitary inspections in respect of these facts.

### **THE NETHERLANDS**

***Drinking Water Law, of 19 July 2009, (Unofficial Translation)***<sup>752</sup>

#### ***Article 8***

1. The owner of a waterworks company is obliged, within the distribution area in which he is authorized to provide drinking water, to provide for a connection to the waterworks he manages, when a person requests him to do so.

2. The owner of a waterworks company is obliged to supply drinking water from his waterworks to those who request that.

#### ***Article 32***

1. The owner of a water company ensures that the supply of decent water to the consumers and other buyers in his distribution area is assured, under the quantities and pressure required by the interests of public health.

2. The owner of a water company must take all appropriate measures to meet the future demand for drinking water in its distribution area.

### **BELARUS**

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<sup>751</sup> Available at:

<http://law.by/work/EnglPortal.nsf/6e1a652fbefce34ac2256d910056d559/e1a1222b11303d0fc2256dee00516e6c?OpenDocument>. (Last visited 4 May 2011)

<sup>752</sup> Dutch original available at: [http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum\\_06-05-2011](http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum_06-05-2011) (Last visited 6 May 2011).

***Decision No. 724 of the Council of Ministers of Republic Belarus “On measures for the establishment of a system of state social service standards for the population of the Republic,” 2003 (Unofficial translation)<sup>753</sup>***

**3. The established state social service standards for the population of the Republic:**

[...]

3.2. [...] are realised within the limits of means being allocated to these purposes.

**Appendix:**

System for state social service standards for the population of the Republic: [...]

2. Obligatory water provision for citizens who live in apartment houses connected to the centralised water supply and canalisation system

- no less than 180 litres per person per day, including a supply of no less than 90 litres per day of hot water.

3. Obligatory water provision for citizens who use water from the water posts

- 35 litres a day per person [...]

**ARMENIA**

***Water Code of the Republic of Armenia, 2002<sup>754</sup>***

**Article 31: Criteria for Review of Water Use Permit Application**

[...]

When considering applications for water use permits, the Water Resources Management and Protection Body shall consider the following criteria to establish priority and equitable allocation of limited water resources to competing stakeholders:

1) The maintenance and enhancement of human welfare and ecological health shall be given the first priority (as indicated by the national water reserve) thus providing first priority of drinking water supply and sanitation; [...]

**AZERBAIJAN**

***Water Code of the Azerbaijan Republic, 1997 (Unofficial translation)<sup>755</sup>***

**Article 16: Key principles of the management over the use and protection of water bodies**

The following shall be the key principles of management over the use and protection of water bodies: [...]

- Supply of quality water for population; [...]

**Article 48: Restricting the use of potable waters for other purposes**

Drinking waters, as a rule, may not be used for the purposes not connected with potable water and service needs.

In regions which do not possess sufficient surface water sources and are rich in subsoil potable water resources such waters may be used for other purposes only on the agreement of relevant executive authorities.

**BELARUS**

***Water Code of the Republic of Belarus, Law No. 191-3 of 15 July 1998, as last amended 13 June 2007 (Unofficial translation)<sup>756</sup>***

<sup>753</sup> Russian original available at: <http://www.lawbelarus.com/repub/sub10/texb8911.htm>. (Last visited 4 May 2011)

<sup>754</sup> Available at: [http://www.parliament.am/law\\_docs/290602HO373eng.pdf?lang=eng](http://www.parliament.am/law_docs/290602HO373eng.pdf?lang=eng). (Last visited 4 May 2011)

<sup>755</sup> Russian available at: [http://www.cawater-info.net/library/rus/water/water\\_azerbaijan.pdf](http://www.cawater-info.net/library/rus/water/water_azerbaijan.pdf) (Last visited 5 May 2011)

<sup>756</sup> Russian original available at: <http://pravo.by/webnpa/text.asp?RN=HK9800191>. (Last visited 4 May 2011)

### **Article 33**

The rights of water users can be limited [...] for the purpose of protection of the health of the population, and also for other national interests or interests of other water users. In this case, the provision of the population with water for drinking and household needs shall be given priority.

### **Article 40**

The use of underground waters of drinking quality for purposes not related to the satisfaction of drinking, household and other needs of the population, and also not related to the satisfaction of the needs of the food industry and farming, as a rule is not allowed.

## **ITALY**

***Act No. 36 on Water Resources, 1994 (Unofficial translation)***<sup>757</sup>

### **Article 2. Uses of water.**

1. The use of water for human consumption has priority over other uses of the body of surface water or groundwater. Other uses are allowed when the resource is sufficient and has not violated the water quality for human consumption.

## **GEORGIA**

***Water Law, Law No. 936-Ic of 1997 (Unofficial translation)***<sup>758</sup>

### **Article 4**

The basic purposes of the present law are [...]

b) to guarantee as a first priority the satisfaction of the population's needs for clean drinking water; [...]

## **KAZAKHSTAN**

***Water Code of the Republic of Kazakhstan, Law No. 481-2 of 09 March 2003, as last amended 27 July 2007 (Unofficial translation)***<sup>759</sup>

### **Article 9**

The legislation on water of the Republic of Kazakhstan is based on the following principles:

[...]

2) the first priority is the provision of the population with drinking water in the necessary quantity and the guaranteed quality;

3) fair and equal access of the population to water; [...]

## **KYRGYZSTAN**

***Law of the Republic of Kyrgyzstan on Water, Law No. 1422-XII of January 1994, as last amended 26 September 1995***<sup>760</sup>

### **Article 15: Types of water use**

Water objects are given in use as a matter of priority for meeting the drinking and domestic needs of the population.

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<sup>757</sup> Italian available at:

[http://www.regione.piemonte.it/bdgiur/download?nomefile=05\\_01\\_1994\\_36.htm#ARTICOLO\\_2](http://www.regione.piemonte.it/bdgiur/download?nomefile=05_01_1994_36.htm#ARTICOLO_2) (Last visited 6 May 2011)

<sup>758</sup> Russian available at: [http://www.cawater-info.net/library/rus/water/water\\_georgia.pdf](http://www.cawater-info.net/library/rus/water/water_georgia.pdf) (Last visited 5 May 2011)

<sup>759</sup> Original Russian version at: <http://www.pavlodar.com/zakon/?dok=02874&ogl=all>. (Last visited 5 May 2011)

<sup>760</sup> Available at: <http://faolex.fao.org/docs/pdf/kyr5254E.pdf>. (Last visited 4 May 2011)



## KYRGYZSTAN

***Water Code of the Kyrgyz Republic, Law No. 8 of 12 January 2005***<sup>761</sup>

### **Article 24: Priorities for water use**

Until such time as Basin Plans are approved that specify a different order of priorities for the purposes of water use, the allocation of water, including underground water, for use on the basis of a Water Use Permission or Special Water Use Permission takes place in accordance with the following priorities:

- the use of water for domestic/drinking water supply purposes; [...]

For similar provisions, *see also*:

Article 12 and 14 of the *Law on Water, Law No. VIII-474* of 21 October 1997 of Lithuania<sup>762</sup>

## MOLDOVA

***Water Code, Law No. 1532 of 22 June 1993, last amended 13 November 2003***<sup>763</sup>

### **Article 23: Main requirements to satisfy drinking and domestic needs of the population**

Water sources are available to satisfy drinking and domestic needs of the population.

### **Article 46: Use of underground water of drinking quality for the needs not linked with drinking and domestic water supply**

1. The use of underground water of drinking quality for the needs not linked with drinking and domestic water supply is not allowed.

2. In areas where necessary surface water sources are absent and where sufficient reserve of underground water of drinking quality exists, water resources management institutions and environment protection bodies can authorize the use of such water for the purpose not connected with drinking or domestic use.

## RUSSIAN FEDERATION

***Water Code of the Russian Federation, Law No. 74-FZ of 3 June 2006, as last amended 23 July 2008 (Unofficial translation)***<sup>764</sup>

### **Article 3**

The water legislation and normative acts adopted in accordance with this legislation are based on the following principles:

[...]

5) priority of use of water objects for the purposes of drinking and domestic water supply before uses for other purposes. Their allocation to uses for other purposes is allowed only if sufficient water resources are available.

## TAJIKISTAN

<sup>761</sup> Available at: <http://faolex.fao.org/docs/texts/kyr49854E.doc>. (Last visited 4 May 2011)

<sup>762</sup> Available at:

[http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_e?p\\_id=55468&p\\_query=drinking%20water&p\\_tr2=2](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=55468&p_query=drinking%20water&p_tr2=2). (Last visited 5 May 2011)

<sup>763</sup> Available at: <http://faolex.fao.org/docs/texts/mol9890.doc>. (Last visited 4 May 2011)

<sup>764</sup> Available at: <http://chuvashia.fas.gov.ru/page.php?id=139> (Last visited 4 May 2011)

***Water Code of the Republic of Tajikistan, 29 March 2000, as last amended 3 March 2006 (Unofficial Translation)***<sup>765</sup>

**Article 30: Priority in giving water bodies for drinking and social needs of population**

Water bodies will be given for use firstly to satisfy drinking and social needs of population.

**Article 53: Water and water bodies allocated for drinking, social and other needs of the population**

Water bodies, the quality of which complies with the established sanitary requirements, will be allocated for drinking, social and other needs of the population.

**TURKMENISTAN**

***Water Code, 1 November 2004 (Unofficial translation)***<sup>766</sup>

**Article 21**

The use of water objects is allowed, first of all, for the satisfaction of the drinking and household needs of the population. Where a water object is assigned to several users, the interests of those who are located in the lower reaches of the river or rivers and channels are considered.

**UZBEKISTAN**

***Law on Water and Water Use, Law No. 837-XII of 6 March 1993 (Unofficial Translation)***<sup>767</sup>

**Article 25: Preferential granting of water objects for population needs**

Water objects shall be given in use first for the satisfaction of drinking and domestic needs.

**Article 43: Use of groundwater of drinking quality for purposes other than drinking and domestic water supply**

The use of groundwater of drinking quality for purposes other than drinking and domestic water supply is, as a rule, prohibited. In regions where the necessary surface water sources are not available and underground water resources fit for drinking are sufficient, the environmental geology and mineral resources organs may permit the use of these waters for purposes other than drinking and domestic water supply, in accordance with the limits established at Article 30 of the present Law.

***4.2.h. Water quality and hygiene***

**ARMENIA**

***Law of the Republic of Armenia on provision of sanitary-epidemiological security of the population, 1992 (Unofficial translation)***<sup>768</sup>

**Article 16: General requirements for the provision of sanitary-epidemiological security of the population concerning public water supply and consumption**  
[...]

<sup>765</sup> Available at: <http://faolex.fao.org/docs/pdf/taj34375E.pdf>. (Last visited 4 May 2011)

<sup>766</sup> Russian original available at: [http://www.turkmenistan.gov.tm/\\_ru/laws/?laws=01bm](http://www.turkmenistan.gov.tm/_ru/laws/?laws=01bm) (Last visited 5 May 2011)

<sup>767</sup> Available at: <http://faolex.fao.org/docs/pdf/uzb5255E.pdf>. (Last visited 5 May 2011)

<sup>768</sup> Available at: <http://faolex.fao.org/docs/texts/arm47094E.doc>. (Last visited 4 May 2011)

The State Governmental bodies must undertake measures for providing high quality water to the population through maintenance and development of the water supply system. [...]

In order to prevent and eliminate the pollution of water sources for public consumption, the authorities of urban and regional municipal executive committees of the deputies, define sanitary protection belts, under a special regime, according to the legislation of the Republic of Armenia.

## **ARMENIA**

***Water Code of the Republic of Armenia, 2002***<sup>769</sup>

### **Article 120: Specifics of operation of potable water supply and wastewater systems**

[...]

It [the Water Authority] shall also guarantee the removal and ultimate disposal of wastewater in a manner that does not produce contamination nor cause damage to third parties.

## **AZERBAIJAN**

***Law on sanitary and epidemiological well-being of the population, Law No. 371 of 1992 (Unofficial translation)***<sup>770</sup>

### **Article 21**

State bodies, public associations, enterprises, organisations, institutions and citizens are obligated to ensure that the quality of the water, supplied by the centralised systems of drinking water supply, corresponds with hygienic requirements and state standards, and [...] to the requirements of the corresponding sanitary standards and rules. Zones of sanitary protection, regulated by a special regime ensuring the proper quality of water, must be established for the water pipes of the centralised domestic water supply and the respective water sources.

## **BELARUS**

***Law on the sanitary and epidemic well-being of the population, Law No. 2583-XII of 23 November 1993, as last amended 16 May 2006***<sup>771</sup>

### **Article 31: Requirements for water sources used by the population**

[...]

In order to prevent the pollution and clogging up of water sources and drinking water supply systems, zones of sanitary protection subject to the relevant requirements and limitations on economic and other activity shall be established in accordance with the legislation of the Republic of Belarus.

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<sup>769</sup> Available at: [http://www.parliament.am/law\\_docs/290602HO373eng.pdf?lang=eng](http://www.parliament.am/law_docs/290602HO373eng.pdf?lang=eng). (Last visited 4 May 2011)

<sup>770</sup> Russian available at: <http://faolex.fao.org/docs/texts/aze47716.doc> (Last visited 5 May 2011)

<sup>771</sup> Available at: <http://law.by/work/EnglPortal.nsf/6e1a652fbefce34ac2256d910056d559/e1a1222b11303d0fc2256dee00516e6c?OpenDocument>. (Last visited 4 May 2011)

For similar provisions, *see also*:

Belarus, *Article 34 Law on drinking water supply, Law No. 271-Z of 24 June 1999, as last amended 20 July 2006*<sup>772</sup>

## KYRGYZSTAN

***Law of the Republic of Kyrgyzstan on Water, Law No. 1422-XII of January 1994, as last amended 26 September 1995***<sup>773</sup>

### **Article 50: Water protection zones**

Water protection zones are established around water intakes, dams, pumping stations, canals, treatment facilities and technical structures for the purpose of protecting water installations and preventing accidents in the territory of the Kyrgyz Republic.

[...]

### **Article 51: Activities relating to the protection of water against exhaustion**

For the purpose of maintaining the optimal regime of rivers, lakes, reservoirs, groundwater, preventing the erosion of soil, the silting of reservoirs, the worsening of the conditions of flora and fauna, the decrease in the vibration of water runoff and other harmful effects of water, water protection zones of forests are established, and forest-land reclamation, anti-erosion measures, hydrotechnical and other works are carried out in the order established by the legislation of the Kyrgyz Republic.

## LATVIA

***Law on Water Management, 1 October 2002 (Unofficial Translation)***<sup>774</sup>

### **Article 2: Purpose of the law**

The purpose of this law is to establish a framework for the protection and management of surface water and groundwater, which:

1) promotes sustainable and rational use of water resources therefore ensuring a long-term protection of the water resources and provision of the sufficient supply of good quality surface water and groundwater to the population; ...

## LITHUANIA

***Law on drinking water, Law No. IX-433 of 7 July 2001***<sup>775</sup>

### **Article 13: Protection of Drinking Water Sources and Sanitary Safeguard Zones**

[...]

2. Sanitary safeguard zones must be established of all categories of cities and towns, village water extraction sites and water sources of individual supply, from which drinking water is supplied to the population, food enterprises or is packaged.

## TAJIKISTAN

<sup>772</sup>Russian original at: <http://pravo.by/webnpa/text.asp?RN=H19900271>. (Last visited 3 May 2011)

<sup>773</sup> Available at: <http://faolex.fao.org/docs/pdf/kyr5254E.pdf>. (Last visited 5 May 2011)

<sup>774</sup> Available at: <http://faolex.fao.org/docs/texts/lat42197.doc>. (Last visited 5 May 2011)

<sup>775</sup> Available at:

[http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_e?p\\_id=192766&p\\_query=drinking%20water&p\\_tr2=2](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_e?p_id=192766&p_query=drinking%20water&p_tr2=2). (Last visited 5 May 2011)

***Water Code of the Republic of Tajikistan, 29 March 2000, as last amended 3 March 2006 (Unofficial Translation)***<sup>776</sup>

**Article 125: Regions, patches and sanitary water protection zones**

Regions, patches and zones of sanitary water protection shall be established with the purpose of protecting water, being used for drinking and social water supply, medical, resorts and rehabilitation needs of the population according to the legislation of the Republic of Tajikistan.

**Article 126: Measures to protect water sources from exhaustion**

Water protection forest zones shall be established to maintain favourable water mode of rivers, lakes, reservoirs, underground water and other water bodies in order to prevent water erosion of soil, silting of reservoirs and worsening of living conditions of water animals, in order to reduce fluctuation of sewage etc., where concerned legal entities and individuals regard-less of the form of property shall be obliged to conduct forest irrigation anti-erosion, hydro-technical and other measures according to the legislation of the Republic of Tajikistan.

**SPAIN**

***Spanish Water Law 1985 (Revised 2001)***<sup>777</sup>

**Article 92. Objectives of protection.**

The objectives of water protection and public water:

- \* B) Promote sustainable water use to protect available water resources and ensuring an adequate supply in good condition.
- \* G) To avoid any accumulation of toxic or hazardous compounds into the ground or any other debris which may cause degradation of public water.
- \* H) Ensure the allocation of water of better quality than those existing in an area or region for supply of stocks. (Lyrics added by Act 11/05)

**THE NETHERLANDS**

***Drinking Water Law, of 19 July 2009, (Unofficial Translation)***<sup>778</sup>

**Article 7**

**The owner of a water company shall:**

- a. establish and maintain a sustainable and efficient public drinking water supply in the distribution area of his company.
- d. guarantee the quality and sustainability of the production and distribution process and the supplied drinking water.

**The owner of a water company will also be responsible for:**

- A. Contributing to the protection of sources of drinking water from pollution in his distribution area, including in any event:
  - 1. conducting research on the quality of these sources;
  - 2. manage or co-manage the areas around these resources to prevent or reduce pollution of these sources;

**Article 21**

<sup>776</sup> Available at: <http://faolex.fao.org/docs/pdf/taj34375E.pdf>. (Last visited 4 May 2011)

<sup>777</sup> Spanish original available at: [http://www.meliaproject.eu/melia-eu-member-states-ms-area/copy2\\_of\\_workgroup.wp0/workgroup-documents-library/ley-de-aguas-espanola](http://www.meliaproject.eu/melia-eu-member-states-ms-area/copy2_of_workgroup.wp0/workgroup-documents-library/ley-de-aguas-espanola) (Last visited 5 May 2011)

<sup>778</sup> Dutch original available at: [http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum\\_06-05-2011](http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum_06-05-2011) (Last visited 6 May 2011).

The owner of a water company shall ensure that drinking water which he makes available to consumers or other customers, shall not entail organisms, parasites or substances, in quantities or concentrations per unit volume with an adverse effects on public health.

The owner of a water company shall also ensure that the design and condition of water supply works, equipment and pipe networks shall form no danger to contamination of the connecting public water supply networks, housing facilities and other installations, and to the supplied drinking water.

By, or pursuant, general administrative measures, notwithstanding the first paragraph, in the interest of the public health, there will be requirements set, on;

- a) the quality of drinking water after it has been made ready for usage, and on analyzing the samples which prove the water being ready for usage.
- b) supervision by or on behalf of the owner of a water company to monitor the condition and operation of the business, and the status of the in that company prepared drinking water;
- c) the materials and chemicals used by the owner of the water company during the extraction, preparation, storage and distribution of drinking water,[...]

For similar provisions, *see also*:

Article 32 of the Dutch *Drinking Water Law*, of 19 July 2009, (Unofficial Translation)<sup>779</sup>

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<sup>779</sup> Dutch original available at: [http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum\\_06-05-2011](http://wetten.overheid.nl/BWBR0026338/geldigheidsdatum_06-05-2011) (Last visited 6 May 2011).

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# The human right to safe drinking and sanitation in law and policy – a sourcebook

With sources from 97 countries, this resource provides an extensive overview of law and policies guaranteeing the human right to water and sanitation at the national level as well as regional and international levels.

Law and policy makers, service regulators and civil society can learn about how the right has been recognised and elaborated at all levels to inform their own efforts to turn the right to safe drinking water and sanitation into reality for all people, everywhere.

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