

ACF INTERNATIONAL NETWORK
POSITIONING PAPER
THE HUMAN RIGHT TO WATER





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ACRONYMS

ACF	Action contre La Faim
ACF-IN	ACF International Network
DFID	Department for International Development
ECHO	Humanitarian Aid Department of the European Commission
EU	European Union
GC 15	General Comments N° 15
HRTW	Human Right to Water
HQ	Headquarter
HOM	Head of Mission
ICESCR	International Covenant on Economic, Social and Cultural Rights
INGO	International Non-Governmental Organisation
MDGs	Millennium Development Goals
NGO	Non-Governmental Organisation
UN	United Nations
UNHCR	United Nation High Commission for Refugees
WASH	Water, Sanitation and Hygiene
WHO	World Health Organisation
WWACE	World Water Assembly for Elected Representatives and citizens

EXECUTIVE SUMMARY

The Human Right to Water (HRTW) is described through General Comment N°15 (GC N°15) of the United Nations (November 2002). This document, which is an interpretation of the International Covenant on Economic, Social and Cultural Rights¹ (which has been ratified by 151 countries at present), is currently the ultimate official statement on the subject.

ACF-IN, as an international Non-Governmental Organisation (NGO) intervening in the Water Hygiene and Sanitation (WASH) sector, needed to improve its understanding of this topic and to take an official position.

This positioning paper offers a common vision of the network's approach, expectations and recommendations regarding GC N°15.

Main ACF-IN recommendations with regards to the Human Right To Water

- At the international level: the establishment and implementation of an international ruling on the HRTW.
- At the national level: adoption by States of a national action plan and national legislation to implement the HRTW and to guarantee that water is accessible for all, especially the most vulnerable people.
- At the humanitarian agencies level: the development of advocacy campaigns to promote the recognition of the HRTW and to highlight situations where this right is violated; as well as the development of local civil society awareness toward the HRTW when appropriate.
- At all levels : insist on the definition, the comprehensive consideration of the sanitation sector

Summary of ACF-IN positioning toward UN General Comment N°15

- The HRTW is a fundamental and inalienable human right of which nobody should be deprived.
- The HRTW is the both an individual and collective right.
- ACF-IN does not accept the limited perspective that considers water only as a need.

1 – Normative content of the HRTW

ACF-IN agrees with the definition of the GC N°15 which entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use. The NGO however advises to explicitly consider the sanitation sector in this content.

2 – Beneficiaries targeted by the HRTW

ACF-IN, whose mandate gives priority to assisting the most vulnerable populations, is in full agreement with GC N°15 which highlights the importance of non-discrimination in the access to water.

3 – Specific vulnerable areas

The GC N°15 states that rural and deprived urban areas should be a priority in terms of water and water facilities. ACF-IN highlights the fact that its programmes entry point is **vulnerability wherever it stands**, and not a specific type of area.

4 – Water price and economic accessibility (affordability)

ACF-IN fully agrees with GC N°15 when it stresses the need to supply affordable water for all and that the HRTW does not mean water for free.

5 – State Responsibilities

ACF-IN agrees with GC N°15 when it highlights the States' responsibilities and duties with regard to water and water facilities, but considers that implementation of HRTW in national constitution or legislation should not be the objective but a means to improve access to water for all.

1 / The International Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted in 1966.



ACF-IN believes that the specific case of countries with absent or weak state governance, which are often linked to contexts of high vulnerability, should also be considered by the HRTW document. For such specific cases, ACF-IN recommends both advocacy and international commitment (e.g. through an international convention or the recognition of the HRTW as a human right) and, in the case of weak states, the effective involvement of lower institutional levels (communal, etc) for the application of the equitable access to water principles.

6 - Mode of water service delivery

ACF-IN is in full agreement with GC N°15, when it highlights that no specific mode of water service delivery is preferable to another. For ACF-IN, the most important objective is to satisfy the vital need for water amongst the most vulnerable people. Accountability and control of water delivery should however ultimately remain a public sector responsibility, even, and especially, when private actors are involved in the process.

7 – Responsibilities of the International Community

ACF-IN fully agrees with GC N°15 regarding the responsibilities of the international community, its duties and the necessity of adopting an international ruling towards the HRTW.

8 – Integrated management in the resource

ACF-IN fully agrees with GC N°15 regarding the need to manage water as a global and unlimited resource. ACF-IN considers the application of the sustainable development concept² to be particularly relevant to the water management process.

9 – Water for personal use only

ACF-IN acknowledges the prioritisation of domestic and personal water, as set in GC n°15, highlighting however the other important potential uses of the resource (e.g agricultural water)

10 – NGO Responsibilities

ACF-IN partially agrees with GC N°15 in so far as it defines the responsibilities of NGOs regarding water and water facilities through the field of emergency situations. ACF-IN considers that early recovery and development contexts, where NGOs also intervene, should also be considered in the HRTW text

² / The term sustainable development is understood as the process which permits to «improve the quality of human life while living within the carrying capacity of supporting ecosystems» (Caring for the Earth, IUCN/WWF/UNEP, 1991)

PURPOSE OF THE DOCUMENT / DISSEMINATION

This document sets out ACF-IN's position on the HRTW. This document is suitable for both internal and external use. It has been agreed upon by all General Directors of the ACF-IN network.

JUSTIFICATION OF THE DOCUMENT

ACF-IN's objective in publishing this positioning paper, is to consolidate its operational (including advocacy) approach through the comprehensive understanding of the implementation of the HRTW for two main reasons:

- To increase the impact and the sustainability of its programmes in the water, sanitation and hygiene sector. For instance, ACF-IN is publicly involved in working towards the MDGs, especially the 7th Goal which aims to “reduce by half the proportion of people without sustainable access to safe drinking water”.
- To facilitate a capacity for an advocacy approach in the sector, both at the international and local level.

This positioning is also necessary because:

- The HRTW, as an advocacy tool, is a means by which to achieve the overall purpose of the NGO, i.e. saving lives by combating hunger and disease, especially amongst vulnerable groups.
- Some of the main donors (especially DFID) refer to the HRTW in their approach, and therefore, being aware of and having a position on the HRTW is a matter of operational coherence.
- ACF-IN is increasingly working with international bodies (e.g. IASC WASH Cluster, World Water Council, etc.) where the HRTW is considered.

METHODOLOGY

This document has been prepared in consultation with the different headquarters of ACF-IN. It summarises a survey carried out in the form of a questionnaire based on the ten key points³ defining the HRTW in the GC No. 15 document.

The questionnaire was initially submitted to ACF-IN Directors and WASH service managers at head-quarter level, and included both open and closed questions. The interviewees were primarily asked to express their “complete agreement, partial agreement or disagreement” toward the 10 key points. Constraints faced, as well as recommendations for possible improvements in the practical implementation of the HRTW have been given particular consideration.

A meeting including all network General Directors, held in Soustou (France) during the ACF International Heads of Mission session (07/2007) offered an opportunity to harmonise the different positions and agree on a final positioning document.

To complement this positioning paper, a complete analysis and understanding of the GC N°15, in perspective with the main stakeholders' position (beneficiaries, institutions, donors, civil society networks, other INGOs) has also been produced by ACF-France (07/2007) and is available on demand.

3 / The ten key points are: normative content of the HRTW ; beneficiaries targeted by the HRTW ; specific vulnerable areas targeted by HRTW ; price of water and economic accessibility; State Party Obligations; the mode of water service delivery; responsibilities of the international community; integrated management of water; water for personal use only; and finally the responsibilities of NGOs.



THE HUMAN RIGHT TO WATER - INTERNATIONAL RECOGNITION

The HRTW is already recognised - implicitly and explicitly - in certain international agreements, acts and declarations.

The HRTW is implicitly recognised in the following texts:

- **Universal Declaration of Human Rights (1948) Article 25:** “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services [...]” The HRTW is implicitly included here. Even though water is not mentioned, it is understood that it is a necessary element for food and to attain an adequate standard of living
- **International Covenant on Social, Economic, and Cultural Rights (1966).** Article 11 is devoted to the right to an adequate standard of living while Article 12 pertains to the right to health.

The HRTW is explicitly recognized in three international conventions:

- **Geneva Convention (1949) and its two additional protocols (1977)**⁴. These texts concentrate explicitly on the HRTW by focusing on drinking water⁵.
- **Convention on the Elimination of All Forms of Discrimination against Women (1979) Article 14**⁶.
- **Convention on the Rights of the Child (1989) Article 24**⁷.

ACF-IN believes it is imperative that more recognition is given to this fundamental right.

4 / Additional Protocol 1 on international conflict and Additional Protocol 2 on non-international conflict

5 / See Articles: Geneva III: Articles 20, 26, 29 and 46/ Geneva IV: Articles 85, 89 and 127/ Additional Protocol I: Articles 54 and 55/ Additional Protocol II: Articles 5 and 14

6 / Article 14 of The Convention on the Elimination of All Forms of Discrimination against Women requires that “States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications”.

7 / Article 24 of the Convention on the Rights of the Child requires that “States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services... 2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (c) To combat disease and malnutrition, 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 [...]”;

ACF-IN POSITION ON THE HUMAN RIGHT TO WATER

- The HRTW is a fundamental and inalienable human right of which nobody should be deprived.
- The HRTW is both an individual and a collective right.
- ACF-IN does not accept the limited perspective that considers water only as a need.

Normative content of the Human Right To Water

“The HRTW entitles 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 disease and to provide for consumption, cooking, personal and domestic hygienic requirements.” GC N°15.

ACF-IN promotes the HRTW, as set out in GC No 15, and considers that the five elements highlighted by this document (quantity, quality, acceptability, physical accessibility and affordability) are essentials. However, explicit references to the sanitation sector should be necessary.⁸

Beneficiaries targeted by the Human Right To Water

“Water and water facilities and services must be accessible to all, including the most vulnerable or marginalized sections of the population without any discrimination between men and women; and with a special attention to women, children, minority groups, indigenous peoples, refugees, etc.” GC N°15.

ACF-IN, whose mandate gives precedence to assisting the most vulnerable populations, is in full agreement with GC N°15, which highlights the importance of non-discrimination in the access to water.

Based on its wide experience in providing humanitarian aid to the most vulnerable populations, ACF-IN believes that access to water must begin by providing this vital resource to the most vulnerable populations for whom the lack of water is first and foremost a question of survival. For this reason, all forms of discrimination, whether political, economic, ethnic or gender-related must be taken into account. The realisation of the HRTW as a basic right is an essential part of the realization and respect of other basic human rights.

It is necessary to pay special attention to issues of gender⁹, understood as: equality between men and women, boys and girls; the active involvement and participation of women in decision-making processes and the management of water and water facilities. ACF-IN would like to underline here the fact that it is women and girls who usually shoulder the burden of fetching water. Therefore, women who spend time fetching water are not able to educate and take care of their children or their homes. Consequently, promoting the involvement and participation of women in all water management processes should be a means of increasing development and reducing poverty.

The HRTW is a fundamental right like other political and civil rights (such as women's rights and the rights of ethnic minorities). All these rights have to be promoted, recognised and respected at the same time to realise the concrete implementation of the HRTW¹⁰.

8 / Including water for sanitation purpose

9 / A Gender Policy document, from ACH, is ongoing. Please refer to this document. The gender issue is particularly taken in consideration and implemented in the ACF-IN approach. Furthermore, all the ACF-IN policies are developed in coherence and complementarity.

10 / The 151 countries, which ratified the ICESCR, have to pay a special attention to the promotion, protection and implementation of the economic, social and cultural rights as defined in the treaty.



Specific vulnerable areas

“Rural and deprived urban areas have priority in term of water and water facilities”.

GC N°15

Referring to its mandate, ACF-IN considers that the degree of vulnerability of a given population is the decisive factor in the provision of aid and not specifically their geographical (rural, urban, peri-urban) location.

ACF-IN therefore considers vulnerability - regardless of whether people live in a rural, urban or peri-urban zone - to be the sole entry point of its interventions, reaffirming the needs-based nature of its interventions.

Water price and economic accessibility (affordability)

“Water, and water facilities and services, must be affordable for all”. «Water should be treated as a social and cultural good and not primarily as an economic good». GC N°15

ACF-IN fully agrees with GC N°15, which highlights the necessity to supply affordable water for all and that the HRTW does not mean water for free. Exemption from payment for water (as goods and/or for infrastructure running and maintenance) only makes sense in emergency situations where the survival of a population is at stake.

ACF-IN considers water to be a social and cultural good and should not therefore be treated as an economic good. Water is a public good that can neither be given a price tag nor can it be regarded as a commodity that is subject to the laws of a market economy and, in turn, to the basic rules of supply and demand. On the other hand, water facilities, services, and infrastructures (construction, running and maintenance) do have a cost, which, however, everyone must be able to afford. While water itself is priceless, water related services do come at a cost. It is therefore important to understand the difference between water as a public natural resource and the service that allows access to it.

Furthermore, the amount that people are charged should take into consideration their social and economic status, to ensure that the most vulnerable people have access to the basic minimum quantity of safe water¹¹. The affordability of water services is one of the most important aspects to be taken into account when improving access to water and water facilities for the most vulnerable people.

Within this framework, the flexibility and the adjustment of solutions adopted and tariff policies set in place are a prerequisite to any improvement of the access to water and sanitation for all.

State Responsibilities

“States parties have immediate obligations in relation to the right to water”. GC N°15

“..requires States parties to adopt the necessary measures directed towards the full realisation of the right to water. The obligation includes: according sufficient recognition of this right within the national political and legal systems, preferably by way of legislative implementation; adopting a national water strategy and plan of action to realize this right”. GC N°15

“States have to ensure that there is sufficient coordination between the national ministries,

11 / GC 15 advocates for the WHO 20 l/p/d standard. However, the figure of 15 l/p/d (SPHERE) is a minimum standard to consider for emergency situations. Flexibility in the application of standards is however recommended by both SPHERE and WHO, and possibly adapted to the context specificity.

regional and local authorities. Where implementation of the RTW has been delegated to local authorities, the State party should ensure that these authorities have at their disposal sufficient resources to maintain and extend the necessary water services and facilities”. GC N°15

The primary responsibility for water and sanitation services, which are in essence a public service, belongs to the State. It is the State’s duty, through efficient monitoring and regulation, to guarantee that water is accessible for all.

The HRTW should be ensured primarily by States in coherence with the management of the various national policies, including those for water, the environment, economy, sustainable development and international agreements.

The integration of the HRTW into national constitutions and/or legislation will probably not offer any immediate benefits, but such a development must be regarded as an important step in improving access to water and sanitation for all, and as a means for subsequent advocacy work. Furthermore, the comprehensive inclusion of the right to water into the national constitution or legislation, as well as the justiciability of this right (understood as the possibility of a population to have access to legal recourse), have to be considered case by case, depending on the population and State practices, capacities and will.

The adoption of a national action plan or strategy in the most vulnerable countries could have an impact only with a sustainable funding plan. Implementation of the HRTW in national constitutions or legislation may indeed be a means to improving access to water for all.

In the specific case of countries with absent or weak state governance, lower institutional levels should be considered for the application of equitable access to water principles and strategies (e.g. provincial level, etc.). Indeed, an in depth analysis of those specific situations must be conducted to understand how these objective can be achieved. Advocacy and international commitment (e.g. through an international convention or of the recognition of the HRTW as a human right) should also be considered.

Mode of water service delivery

“Any payment for water services has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all”. GC N°15

ACF-IN is in full agreement with General Comment No. 15, where it is highlighted that no specific mode of water service delivery is better than another. The most important objective is the effective and rapid satisfaction of a vital need, precedence being given to the most vulnerable.

By virtue of both its humanitarian mandate and its apolitical nature, ACF-IN does not take a stance in favour of any one management method over another (e.g. public or private) and refuses to debate over the relative merits of the public and private sector¹². Only a positive and coordinated approach based on dialogue combined with advocacy will ensure the protection of individual rights.

Water service delivery is in essence a public service, which should be ideally managed by public authorities within a transparent and effective legislative framework, even, and especially when private actors are involved in the water delivering process. In this respect, several factors could improve the implementation and application of the HRTW:

- Holistic understanding of both the capacities and needs of most vulnerable populations
- Harmonisation of national legislation and policies with international commitment and legal texts

¹² / Furthermore, in emergency situations, assumptions as to the performance of public or private sectors have no place, as both sectors are often absent in areas in which NGOs are active.



related to the HRTW (like the GC N°15).

- Improved coordination (and collaboration when relevant) between private and public sector strategies, and between the different stakeholders involved (including NGOs, UN agencies, etc.)
- Capacity building for local public authorities to ensure regulation and control over water services
- Improvement and effectiveness of the legislative framework and promotion of good governance.

International community responsibilities

“States parties should ensure that the right to water is given due attention in international agreements and, to that end, should consider the development of further legal instruments”.

GC N°15

“The International community should recognize the right to water as a human right and as a prerequisite for the realisation of other human rights”. GC N°15

ACF-IN fully agrees with GC N°15 which highlights the international community’s responsibilities and duties and the need to adopt an international ruling towards the HRTW. The HRTW should be the subject of an international ruling¹³ such as a UN convention, or must be accorded status as a human right.

The adoption of convention could be the best way of enforcing the HRTW. Such a convention would not solve all the problems inherent to accessing water and sanitation, but its existence could provide an international legal framework within which to establish the equitable distribution of water and it would also offer populations in need a formal instrument with which to demand the right to access safe drinking water. ACF-IN keeps in mind that the implementation of such a tool will take several years, and has engaged itself in promoting the fulfilment of the Right to Water at a local level during this time.

Any new UN convention drawn up for the approval of Member States on this subject should include provisos linked to the preservation of water resources, the ranking of water use (in which domestic use would have priority over all the others), safeguarding of water during conflict, protection of the HRTW in the event of an international or non-international conflict. etc. This international convention should affirm that water must never be used as a means of pressure or as a target in the event of armed conflicts or civil wars. The objective of this convention would be to set out the responsibilities of States (Governments) in the management of water and sanitation services and to confirm their role in the coordination and monitoring of all water services. This kind of legal and restrictive international tool should define a normative content of the HRTW. However, this tool should be adaptable and flexible to the different contexts and needs, and the governments should be able to exercise their sovereignty¹⁴ and to define national standards.

ACF-IN supports the November 2006 international and governmental collective initiative that calls for the HRTW and Sanitation to be regarded as a universal human right¹⁵. ACF-IN invites the 23 State parties who signed this initiative to guarantee that it will be achieved. ACF-IN supports the aim of this approach which was to have water-related questions formally included on the Agenda of the Human Rights Commission¹⁶. This could be the beginning of a process that would result in the recognition of the HRTW as a human right and to the approval of the United Nations Convention. Therefore, in support of this initiative, ACF-IN pledges to play an active advocacy role in favour of the most vulnerable, particularly in those regions where the HRTW is ignored.

13 / GC N°15 is not a constraining document, but only a guideline for the states to implement the right to water. However, it advocates for setting-up an international agreement to promote HRTW (GC N°15 - article 35). This international agreement should be especially enforced for weak states and in case of lack of states.

14 / In respect of international ruling, especially the Human Rights Declaration (1948).

15 / The United Nation General Assembly declared 2008 as the international Year of Sanitation.

16 / The issue of water was included in a report on the right to food submitted to the Human Rights Commission by J. Ziegler, Special Rapporteur on the Right to Food. In another report on this subject in 2003 he also referred to the Human Right to Water. This initiative is therefore a request that the Human Right to Water be dealt with as a separate issue

Integrated management of the resource

“States parties should adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations”. GC N°15

ACF-IN believes that the integrated management of the resource (considering together the physical resource, the environment and the social aspects) should be considered in any approach and projects related to the WASH sector.

ACF-IN fully agrees with CG N°15 which highlights the need to manage water and preserve the water resource. ACF-IN considers that the application of the sustainable development concept¹⁷ is particularly relevant in the issue of comprehensive water management.

Water for personal use only

“The HRTW entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses”. GC N°15

GC N°15 in its current form concentrates only on water for domestic and personal consumption.

In many areas, water for agriculture and water for animals (particularly in agro-pastoralist areas) is as important as water for personal use. ACF-IN, by virtue of its integrated approach¹⁸ to the fight against malnutrition, believes that water used for agricultural purposes ensures the food safety of populations. The overall solution that ACF-IN defends is part of efforts to set in place integrated management structures (taking into account social and environmental factors), which guarantee sustained access to water and its conservation.

Water use must however be ranked in order of priority: first for personal and domestic use¹⁹; second for hospitals, health centres, schools, etc; and third, to ensure food security as well as socio-economic development. This ranking is reflected by ACF-IN operational strategy.

It is essential and urgent to recognise the HRTW as a fundamental human right, but this consideration should not ignore the fact that water is a global resource which has multiple and complementary uses. The HRTW should not limit its scope to the uses of water for domestic purpose even if ACF-IN agrees that the domestic water remains the priority of the Right.

NGO Responsibilities

“The role of the International Federation of the Red Cross and Red Crescent Societies, International Committee of the Red Cross, the Office of the United Nations High Commissioner for Refugees (UNHCR), WHO and UNICEF, as well as non-governmental organisations and other associations, is of particular importance in relation to disaster relief and humanitarian assistance in times of emergencies. Priority in the provision of aid, distribution and management of water and water facilities should be given to the most vulnerable or marginalized groups of the population”. GC N°15

ACF-IN agrees on the CG N°15, and believes that NGO responsibilities are not limited to emergency contexts, but also to early recovery and development contexts, where it is necessary to:

¹⁷ / The sustainable development is understood as the process which permit to «Improve the quality of human life while living within the carrying capacity of supporting ecosystems» (Caring for the Earth, IUCN/WWF/UNEP, 1991)

¹⁸ / The integrated management involves social and environmental aspects which are inseparable from resources.

¹⁹ / Including water for sanitation purpose



- Ensure the extension of services and management of the resource,
- Strengthen local capacities, provide training and technical assistance,
- Develop advocacy.
- Ensure access to a sufficient, sustainable and affordable quantity of water per capita.



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RECOMMENDATIONS

International level

- The establishment and implementation of an international ruling on the HRTW, as a UN convention.
- Ensure that the United Nations Human Rights Council recognises access to water as a universal and inalienable human right
- Recognition and respect of the HRTW as a human and inalienable right and all this implies in all international dealings.
- Setting up of indicators to ensure and monitor the implementation of the HRTW and the implementation and the realisation of the MDGs, especially in developing countries.
- Working on concrete implementation of the HRTW and technical accountability on this implementation by developing operational research and capitalisation of case studies, by identifying potential risks or constraints and identifying best practices to be promoted.
- Ensure that sanitation is systematically included in the HRTW approach and water projects (sanitation refers to the collection, transport, treatment and disposal of human excrement and waste or household wastewater).

National level

- States should adopt a national plan of action, national strategies and national legislation in order to be responsible and accountable for water and sanitation services.
- States should adopt national indicators to improve efficient monitoring and regulation and to guarantee that water is accessible for all.
- In case of weak or developing States, it is necessary to promote cooperation between the different stakeholders session.

Humanitarian agencies (including ACF-IN)

- Promote and advocate the development of international standards, benchmarks and indicators on the HRTW. For instance, ACF-IN contributed to the elaboration of SPHERE standards and supports the development of national standards.
- Develop the capacity of local civil society partners to assert their HRTW, and at the same time, when possible, sensitise the local authorities to this fundamental right. For example, ACF-IN should ensure that the HRTW is integrated into local advocacy, and in the sensitisation of both staff and beneficiaries. ACF-IN highlights that some “rights based approach²⁰” tools have already been developed by other international agencies (like the UNHCR). These innovative tools could be used at the local level to develop awareness of local civil society toward HRTW.
- Promote and facilitate, through capacity building development, the accountability of local government partners with respect to the HRTW. ACF-IN should cooperate with local authorities as long as

20 / A rights-based approach to development is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. Please refer to the following website link to get more details about the added values of this approach : <http://www.unhcr.ch/development/approaches-07.html>



it is in line with the principles of the NGO and its mandate. Ultimately the main objective of cooperation with local authorities is to ensure sustainable access for all to clean water. Specific objectives should be to increase pressure for more accountability, to develop expertise, to ensure capacity building, to contribute to local and regional action plans.

- Get a better understanding of the national action plan, national strategies and national policies regarding access to water, to ensure a better coordination and complementarity between NGOs and national authorities. In case of weak or developing States, it is necessary to support the development of this kind of national framework, particularly when inexistent.
- Ensure that projects do not inadvertently distort customary or traditional means of accessing water.
- Develop, document and highlight violations of the HRTW through active advocacy campaigns, especially by participating actively in international and regional forums. ACF-IN publicly engaged its responsibility on this specific issue at the AMECE, held in the European Parliament in Brussels (18 to 20 March 2007).

APPENDIX 01

ACF-IN SPEECH WWACE - EUROPEAN PARLIAMENT (18/03/2007)

Speech by Ms Julie Aubriot, Researcher
on behalf of Action contre La Faim INTERNATIONAL,
Technical Department, Water, Sanitation and Hygiene Service ACF – France,
18 March 2007, to the World Water Assembly for Elected Representatives and Citizens held at the
European Parliament in Brussels, (Belgium), presenting
ACF-International's position in respect of the Right to Water and Sanitation

Elected Representatives,
Members of the European Parliament,

Ladies and Gentlemen,

Action contre La Faim International is a humanitarian NGO currently working in more than forty countries, with projects and programmes in the water and sanitation sector in 35 of them. In all its activities, ACF-IN respects the principles of its charter: independence, neutrality and non-discrimination. It is apolitical and non-denominational. It gives priority to situations of emergency and political crisis and also becomes involved when natural disasters occur. Its assistance is targeted at the most vulnerable populations.

The main objective of the Association's programmes is the reduction of morbidity and mortality. To that end, its integrated activities focus on the 5 complementary sectors of nutrition, health, food safety, water and sanitation and advocacy. Whilst Action contre La Faim International would at first glance seem to concentrate on malnutrition, particularly in its acute form, and especially for children under 5 years old, in reality this problem is approached both from the standpoint of treatment and that of prevention. ACF-IN's Water, Sanitation and Hygiene projects are for the most part incorporated into this preventive framework in order to improve public health and promote the socio-economic development of the populations concerned.

In order to strengthen both the impact and the sustainability of its activities in the water and sanitation sector, Action contre La Faim International intends to widen its operational approach on the ground to cover methods which will ensure that the right to water is put into practice. The need for such a global vision is the result of the growing diversity of geographical, socio-cultural and political contexts, which together make up the Association's framework for action.

CG N°15 published by the United Nations Committee on Economic, Social and Cultural Rights in November 2002 provides the 151 States parties having signed the 1966 International Covenant on Economic, Social and Cultural Rights with a basis upon which to study and apply the right to water. This General Comment highlights the noble principles of the right to water and clarifies potential ambiguities, such as the concept of exemption from payment.

The very magnitude of the problem arising out of the access to water and sanitation at the dawn of the third millennium calls for heightened awareness of the International community to this issue. It is for this reason that Action contre La Faim International is appealing to International policy-makers to take action and in doing so to give priority to the most vulnerable populations.

Ladies and gentlemen, Action contre La Faim International wishes to share with you its position on the right to water from the standpoint of an NGO providing emergency relief in the field. To this end we also wish to highlight four major points contained in UN ECOSOC's General comment No. 1: the right to water and sanitation for the most vulnerable populations, the price of water, the best methods of managing this resource, the responsibility of the State.

Action contre La Faim International is in complete agreement with the definition of the right to water that states that everyone should have access "...to sufficient, safe, acceptable, physically accessible and affordable water." Twenty-five years of experience in providing humanitarian aid has convinced us that access to water must begin with making this resource available to the most vulnerable populations for whom the lack of water is first and foremost a question of survival. For this reason all forms of discrimination must be taken into account.



Action contre La Faim International considers that water is a social and cultural good that should not, and indeed cannot, be treated as an economic good. Water is a resource that can neither be given a price tag nor regarded as a commodity that is subject to the laws of a market economy and, in turn, to the basic rules of supply and demand. On the other hand, water facilities, services, and infrastructures do have a cost, which must be priced at a level affordable for all. Within this framework, the flexibility and the adjustment of solutions adopted and tariff policies set in place cannot be ignored. Exemption from payment of water only makes sense in emergency situations where the very survival of a population is at stake.

By virtue of its humanitarian mandate, Action contre La Faim International does not take a stance in favor of any one management method over another. Its objective is the effective and rapid satisfaction of an essential need, precedence being given to the most vulnerable. Furthermore, in emergency situations, assumptions as to the performance of public or private sectors have no place, as both are often absent in areas where NGOs are active.

But, there is no doubt that it is only through complementarity of action and coordination of all those involved that the Millennium Development Goals will be reached. In this way the harmonization of national policy with International texts on the one hand, and of the strategies of the private with the public actors on the other, and finally of the capacities with the needs of vulnerable populations will lead to optimal implementation and application of the right to water. Only with an approach that focuses on dialogue and the determination to protect individual human rights can this be ensured.

The State is responsible for water and sanitation services, which are in essence a public service. It is the duty of Governments, through efficient monitoring and regulation, to guarantee that water is accessible for all. Whilst writing the right to water into national constitutions will probably not offer any immediate benefits it must, nevertheless, be regarded as an important step towards improving the access to water and sanitation for all. However, this does raise the problem of countries in which the democratic process is absent or weak and it is in such situations that an International approach could ensure the realization of the right to water for all. It is crucial to clarify the links between State, local communities and NGOs in order to apply the right to water, being careful not to substitute one for the other. This recommendation will require that the capacities of States, and particularly local communities, be strengthened.

The United Nation's CG N°15 in its current form concentrates only on water for domestic and personal consumption. Action contre La Faim International, by virtue of its integrated approach to the fight against malnutrition, considers this concept to be restrictive. As an NGO, ACF-IN defends a global approach to water that also considers this resource to be a factor for development. Water used for agricultural purposes in particular ensures the food safety of populations. This global solution falls within the framework of efforts to set in place integrated management structures that guarantee sustained access to water. Nonetheless, as an NGO working in situations of emergency, ACF-IN recognizes that water use is subject to a number of priorities: first, personal and domestic use and provision to hospitals and health centres, and then water considered as a factor of socio-economic development.

Action contre La Faim International believes that the right to water for all is a fundamental and inalienable human right of which nobody should be deprived. Action contre La Faim International does not accept the limited vision within which water is seen only as a need. Action contre La Faim International supports the November 2006 collective initiative that calls for the right to water and sanitation to be considered as a universal human right and invites the thirty-two State parties having signed this initiative to guarantee to achieve this. Action contre La Faim International is committed to playing an active advocacy role in favour of the most vulnerable, particularly in regions where the right to water is ignored.

Thank you Ladies and Gentlemen, Elected Representatives and Members of the European Parliament, for your attention.

MAIN DONORS POSITIONING TOWARD HRTW

DFID

The UK government has adopted an official position in relation to the HRTW. The government's position is set out on the website at the following address: <http://www.dfid.gov.uk/pubs/files/human-right-water.pdf>.

This document clearly states that the UK Governments does not accept the General Comment 15 in its entirety, but only in so far as it is consistent with the position set out in the note mentioned above.

Within DFID, there is an ongoing process to clarify the DFID policy in support of increased access to water for poor people. This includes consideration of what DFID can do to strengthen the effective demand for change by the poor, including how DFID can support countries to realise the HRTW.

DFID expects to complete the policy review by the end of 2007. When this revision is over, the implementation of the HRTW should be one of the main entry points for DFID projects.

ECHO

The European Union's mandate to ECHO Regulation (CE) N° 1257/96²¹ is to provide emergency assistance and relief to the victims of natural disasters or armed conflict outside the European Union. This mandate as defined by the regulation mentioned above is clearly defined. The aid is intended to go directly to those in distress, irrespective of race, religion or political convictions.

On this basis, ECHO's aid shall comprise of assistance, relief and protection operations on a non-discriminatory basis to help vulnerable populations in developing countries, victims of natural disasters, man-made crises (such as war) and those affected by exceptional situations or circumstances. Furthermore, the humanitarian community provides the necessary assistance and relief to people affected especially where their own governments prove unable to help or there is a vacuum of power.

Within this context, the HRTW is essential. However, the HRTW, as defined by the UN General Comment No 15 goes beyond the ECHO mandate. It is more a development problematic, which comes within the competence of other European Commission services, as the DG DEV and RELEX.

EU

The EUROPEAN UNION recognises that the right to water is a fundamental right and that the water and sanitation sector is one of the major means of reaching the MDGs. The Water Facility lead by the EU in 2002 highlights this position by strengthening dialogue and coordination between the different stakeholders in order to improve the development of a positive political framework and the development of national strategies. At present, the EUROPEAN UNION has no official position regarding an international restrictive tool specific to the right to water. However, the EU is engaged in the protection and promotion of the economic, social and cultural rights and especially in the fulfilment of the IESCR. Furthermore, the EU would like to promote a human rights approach in every partnership with developing countries. The EU position towards the right to water is further explained in the following letter:

21 / http://eurlex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=fr&numdoc=31996R1257&model=guichett



COMMISSION EUROPÉENNE

Cabinet du Commissaire Louis Michel
Membre du Cabinet

24 AVR. 2007

Bruxelles, le
ID/cs/A 1218 (2007) D 622

Chère Madame,

Le Commissaire Michel a bien reçu votre lettre relative à la question du droit à l'eau et il vous en remercie. Il m'a chargé de répondre en son nom.

Cette question nous interpelle particulièrement en raison de l'effort singulier que la Commission européenne a fourni lors des dernières années dans ce domaine, comme le Commissaire a d'ailleurs pu illustrer dans son discours à l'occasion de l'AMECE auquel vous vous référez. Je ne reviendrai donc pas sur tous les chiffres ainsi que les exemples concrets de notre coopération dans ce domaine.

La Commission considère que l'accès à l'eau est un besoin fondamental de l'être humain et que l'approvisionnement en eau et l'assainissement non seulement constituent en soi des services de base essentiels, mais contribuent également à atteindre les Objectifs du Millénaire du Développement (OMD). Cette position a été à la base du lancement de l'Initiative de l'UE pour l'Eau, inaugurée au Sommet Mondial du Développement Durable de Johannesburg, en septembre 2002.

L'accès à l'eau est également une priorité dans tous les programmes de la Commission européenne. Non seulement dans nos projets, mais aussi, comme le démontre l'Initiative pour l'Eau, au travers d'initiatives rassemblant la Commission européenne, les Etats membres de l'Union ainsi que les différents intervenants africains afin de renforcer le cadre politique, le dialogue, les stratégies nationales et la coordination des bailleurs de fonds autour de la réalisation de ce besoin.

Il n'existe pas de position officielle de l'UE pour le moment sur le développement d'un instrument juridique spécifique relatif au droit à l'eau. Dès lors, la Commission européenne agit dans ce domaine sous l'angle de la protection des droits économiques, sociaux et culturels. Une perspective 'droits de l'homme' est recherchée dans les plans de développement nationaux et dans nos partenariats avec les pays tiers en ayant à l'esprit l'universalité, l'indivisibilité et l'interdépendance de tous les droits, y compris ceux contenus dans le Pacte International relatif aux Droits Economiques, Sociaux et Culturels.

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Agenda item 3

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS CG N°15 (2002)

The HRTW (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights)

I. INTRODUCTION

1. Water is a limited natural resource and a public good fundamental for life and health. The HRTW is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights. The Committee has been confronted continually with the widespread denial of the HRTW in developing as well as developed countries. Over one billion persons lack access to a basic water supply, while several billion do not have access to adequate sanitation, which is the primary cause of water contamination and diseases linked to water.²² The continuing contamination, depletion and unequal distribution of water is exacerbating existing poverty. States parties have to adopt effective measures to realize, without discrimination, the HRTW, as set out in this general comment.

The legal bases of the HRTW

2. The HRTW entitles 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 disease and to provide for consumption, cooking, personal and domestic hygienic requirements.

3. Article 11, paragraph 1, of the Covenant specifies a number of rights emanating from, and indispensable for, the realization of the right to an adequate standard of living "including adequate food, clothing and housing". The use of the word "including" indicates that this catalogue of rights was not intended to be exhaustive. The HRTW clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for

22 / In 2000, the World Health Organization estimated that 1.1 billion persons did not have access to an improved water supply (80 per cent of them rural dwellers) able to provide at least 20 litres of safe water per person a day; 2.4 billion persons were estimated to be without sanitation. (See WHO, *The Global Water Supply and Sanitation Assessment 2000*, Geneva, 2000, p.1.) Further, 2.3 billion persons each year suffer from diseases linked to water: see United Nations, Commission on Sustainable Development, *Comprehensive Assessment of the Freshwater Resources of the World*, New York, 1997, p. 39



survival. Moreover, the Committee has previously recognized that water is a human right contained in article 11, paragraph 1, (see General Comment No. 6 (1995)).²³ The HRTW is also inextricably related to the right to the highest attainable standard of health (art. 12, para. 1)²⁴ and the rights to adequate housing and adequate food (art. 11, para. 1).²⁵ The right should also be seen in conjunction with other rights enshrined in the International Bill of Human Rights, foremost amongst them the right to life and human dignity.

4. The HRTW has been recognized in a wide range of international documents, including treaties, declarations and other standards.²⁶ For instance, Article 14, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination Against Women stipulates that States parties shall ensure to women the right to “enjoy adequate living conditions, particularly in relation to [...] water supply”. Article 24, paragraph 2, of the Convention on the Rights of the Child requires States parties to combat disease and malnutrition “through the provision of adequate nutritious foods and clean drinking-water”.

5. The HRTW has been consistently addressed by the Committee during its consideration of States parties’ reports, in accordance with its revised general guidelines regarding the form and content of reports to be submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights, and its general comments.

6. Water is required for a range of different purposes, besides personal and domestic uses, to realize many of the Covenant rights. For instance, water is necessary to produce food (right to adequate food) and ensure environmental hygiene (right to health). Water is essential for securing livelihoods (right to gain a living by work) and enjoying certain cultural practices (right to take part in cultural life). Nevertheless, priority in the allocation of water must be given to the HRTW for personal and domestic uses. Priority should also be given to the water resources required to prevent starvation and disease, as well as water required to meet the core obligations of each of the Covenant rights.²⁷

Water and Covenant rights

7. The Committee notes the importance of ensuring sustainable access to water resources for agriculture to realize the right to adequate food (see General Comment No.12 (1999)).²⁸ Attention should be given to ensuring that disadvantaged and marginalized farmers, including women farmers, have equitable access to water and water management systems, including sustainable rain harvesting and irrigation technology. Taking note of the duty in article 1, paragraph 2, of the Covenant, which provides that a people may not “be deprived of its means of subsistence”, States parties should ensure that

²³ / See paras. 5 and 32 of the Committee’s General Comment No. 6 (1995) on the economic, social and cultural rights of older persons.

²⁴ / See General Comment No. 14 (2000) on the right to the highest attainable standard of health, paragraphs 11, 12 (a), (b) and (d), 15, 34, 36, 40, 43 and 51.

²⁵ / See para. 8 (b) of General Comment No. 4 (1991). See also the report by Commission on Human Rights’ Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Mr. Miloon Kothari (E.CN.4/2002/59), submitted in accordance with Commission resolution 2001/28 of 20 April 2001. In relation to the right to adequate food, see the report by the Special Rapporteur of the Commission on the right to food, Mr. Jean Ziegler (E/CN.4/2002/58), submitted in accordance with Commission resolution 2001/25 of 20 April 2001.

²⁶ / See art. 14, para. 2 (h), Convention on the Elimination of All Forms of Discrimination Against Women; art. 24, para. 2 (c), Convention on the Rights of the Child; arts. 20, 26, 29 and 46 of the Geneva Convention relative to the Treatment of Prisoners of War, of 1949; arts. 85, 89 and 127 of the Geneva Convention relative to the Treatment of Civilian Persons in Time of War, of 1949; arts. 54 and 55 of Additional Protocol I thereto of 1977; arts. 5 and 14 Additional Protocol II of 1977; preamble, Mar Del Plata Action Plan of the United Nations Water Conference; see para. 18.47 of Agenda 21, Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (A/CONF.151/26/Rev.1 (Vol. I and Vol. I/Corr.1, Vol. II, Vol. III and Vol. III/Corr.1) (United Nations publication, Sales No. E.93.I.8), vol I: Resolutions adopted by the Conference, resolution 1, annex II; Principle No. 3, The Dublin Statement on Water and Sustainable Development, International Conference on Water and the Environment (A/CONF.151/PC/112); Principle No. 2, Programme of Action, Report of the United Nations International Conference on Population and Development, Cairo, 5-13 September 1994 (United Nations publication, Sales No. E.95.XIII.18), chap. I, resolution 1, annex; paras. 5 and 19, Recommendation (2001) 14 of the Committee of Ministers to Member States on the European Charter on Water Resources; resolution 2002/6 of the United Nations Sub-Commission on the Promotion and Protection of Human Rights on the promotion of the realization of the right to drinking water. See also the report on the relationship between the enjoyment of economic, social and cultural rights and the promotion of the realization of the right to drinking water supply and sanitation (E/CN.4/Sub.2/2002/10) submitted by the Special Rapporteur of the Sub-Commission on the right to drinking water supply and sanitation, Mr. El Hadji Guissé.

²⁷ / See also World Summit on Sustainable Development, Plan of Implementation 2002, paragraph 25 (c).

²⁸ / This relates to both availability and to accessibility of the right to adequate food (see General Comment No. 12 (1999), paras. 12 and 13).

there is adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples.²⁹

8. Environmental hygiene, as an aspect of the right to health under article 12, paragraph 2 (b), of the Covenant, encompasses taking steps on a non-discriminatory basis to prevent threats to health from unsafe and toxic water conditions.³⁰ For example, States parties should ensure that natural water resources are protected from contamination by harmful substances and pathogenic microbes. Likewise, States parties should monitor and combat situations where aquatic eco-systems serve as a habitat for vectors of diseases wherever they pose a risk to human living environments.³¹

9. With a view to assisting States parties' implementation of the Covenant and the fulfillment of their reporting obligations, this General Comment focuses in Part II on the normative content of the HRTW in articles 11, paragraph 1, and 12, on States parties' obligations (Part III), on violations (Part IV) and on implementation at the national level (Part V), while the obligations of actors other than States parties are addressed in Part VI.

II. NORMATIVE CONTENT OF THE HRTW

10. The HRTW contains both freedoms and entitlements. The freedoms include the right to maintain access to existing water supplies necessary for the HRTW, and the right to be free from interference, such as the right to be free from arbitrary disconnections or contamination of water supplies. By contrast, the entitlements include the right to a system of water supply and management that provides equality of opportunity for people to enjoy the HRTW.

11. The elements of the HRTW must be *adequate* for human dignity, life and health, in accordance with articles 11, paragraph 1, and 12. The adequacy of water should not be interpreted narrowly, by mere reference to volumetric quantities and technologies. Water should be treated as a social and cultural good, and not primarily as an economic good. The manner of the realization of the HRTW must also be sustainable, ensuring that the right can be realized for present and future generations.³²

12. While the adequacy of water required for the HRTW 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.³³ These uses ordinarily include drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene.³⁴ The quantity of water available for each person should correspond to World Health Organization (WHO) guidelines.³⁵ Some individuals and groups may also require additional water due to health, climate, and work conditions;

29 / See also the Statement of Understanding accompanying the United Nations Convention on the Law of Non-Navigational Uses of Watercourses (A/51/869 of 11 April 1997), which declared that, in determining vital human needs in the event of conflicts over the use of watercourses "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".

30 / See also para. 15, General Comment No. 14.

31 / According to the WHO definition, vector-borne diseases include diseases transmitted by insects (malaria, filariasis, dengue, Japanese encephalitis and yellow fever), diseases for which aquatic snails serve as intermediate hosts (schistosomiasis) and zoonoses with vertebrates as reservoir hosts.

32 / For a definition of sustainability, see the Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 1992, Declaration on Environment and Development, principles 1, 8, 9, 10, 12 and 15; and Agenda 21, in particular principles 5.3, 7.27, 7.28, 7.35, 7.39, 7.41, 18.3, 18.8, 18.35, 18.40, 18.48, 18.50, 18.59 and 18.68.

33 / "Continuous" means that the regularity of the water supply is sufficient for personal and domestic uses.

34 / 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.

35 / 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.

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.³⁶ 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.³⁷ 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.³⁸

Special topics of broad application

Non-discrimination and equality

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

14. 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 HRTW. States parties should ensure that the allocation of water resources, and investments in water, facilitate access to water for all members of society. Inappropriate resource allocation can lead to discrimination that may not be overt. For example, investments should not disproportionately favor expensive water supply services and facilities that are often accessible only to a small, privileged fraction of the population, rather than investing in services and facilities that benefit a far larger part of the population.

15. With respect to the HRTW, States parties have a special obligation to provide those who do not have sufficient means with the necessary water and water facilities and to prevent any discrimination on internationally prohibited grounds in the provision of water and water services.

³⁶ / 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."

³⁷ / 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.

³⁸ / See para. 48 of this General Comment.

16. Whereas the HRTW applies to everyone, States parties should give special attention to those individuals and groups who have traditionally faced difficulties in exercising this right, including women, children, minority groups, indigenous peoples, refugees, asylum seekers, internally displaced persons, migrant workers, prisoners and detainees. In particular, States parties should take steps to ensure that:

- a) Women are not excluded from decision-making processes concerning water resources and entitlements. The disproportionate burden women bear in the collection of water should be alleviated;
- b) Children are not prevented from enjoying their human rights due to the lack of adequate water in educational institutions and households or through the burden of collecting water. Provision of adequate water to educational institutions currently without adequate drinking water should be addressed as a matter of urgency;
- c) Rural and deprived urban areas have access to properly maintained water facilities. Access to traditional water sources in rural areas should be protected from unlawful encroachment and pollution. Deprived urban areas, including informal human settlements, and homeless persons, should have access to properly maintained water facilities. No household should be denied the HRTW on the grounds of their housing or land status;
- d) Indigenous peoples' access to water resources on their ancestral lands is protected from encroachment and unlawful pollution. States should provide resources for indigenous peoples to design, deliver and control their access to water;
- e) Nomadic and traveller communities have access to adequate water at traditional and designated halting sites;
- f) Refugees, asylum-seekers, internally displaced persons and returnees have access to adequate water whether they stay in camps or in urban and rural areas. Refugees and asylum-seekers should be granted the HRTW on the same conditions as granted to nationals;
- g) Prisoners and detainees are provided with sufficient and safe water for their daily individual requirements, taking note of the requirements of international humanitarian law and the United Nations Standard Minimum Rules for the Treatment of Prisoners;³⁹
- h) Groups facing difficulties with physical access to water, such as older persons, persons with disabilities, victims of natural disasters, persons living in disaster-prone areas, and those living in arid and semi-arid areas, or on small islands are provided with safe and sufficient water.

III. STATES PARTIES' OBLIGATIONS

General legal obligations

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

18. States parties have a constant and continuing duty under the Covenant to move as expeditiously and effectively as possible towards the full realization of the HRTW. Realization of the right should be feasible and practicable, since all States parties exercise control over a broad range of resources, including water, technology, financial resources and international assistance, as with all other rights in the Covenant.

19. There is a strong presumption that retrogressive measures taken in relation to the HRTW are prohibited under the Covenant.⁴⁰ If any deliberately retrogressive measures are taken, the State party

39 / See arts. 20, 26, 29 and 46 of the third Geneva Convention of 12 August 1949; arts. 85, 89 and 127 of the fourth Geneva Convention of 12 August 1949; arts. 15 and 20, para. 2, United Nations Standard Minimum Rules for the Treatment of Prisoners, in Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1).

40 / See General Comment No. 3 (1990), para. 9.



has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in the Covenant in the context of the full use of the State party's maximum available resources.

Specific legal obligations

20. The HRTW, like any human right, imposes three types of obligations on States parties: obligations to *respect*, obligations to *protect* and obligations to *fulfill*.

a) Obligations to respect

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

22. The Committee notes that during armed conflicts, emergency situations and natural disasters, the HRTW embraces those obligations by which States parties are bound under international humanitarian law.⁴¹ This includes protection of objects indispensable for survival of the civilian population, including drinking water installations and supplies and irrigation works, protection of the natural environment against widespread, long-term and severe damage and ensuring that civilians, internees and prisoners have access to adequate water.⁴²

b) Obligations to protect

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

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

c) Obligations to fulfill

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

26. The obligation to fulfill requires States parties to adopt the necessary measures directed towards the full realization of the HRTW. The obligation includes, inter alia, according sufficient recognition of this right within the national political and legal systems, preferably by way of legislative implementation;

41 / For the interrelationship of human rights law and humanitarian law, the Committee notes the conclusions of the International Court of Justice in *Legality of the Threat or Use of Nuclear Weapons* (Request by the General Assembly), ICJ Reports (1996) p. 226, para. 25.

42 / See arts. 54 and 56, Additional Protocol I to the Geneva Conventions (1977), art. 54, Additional Protocol II (1977), arts. 20 and 46 of the third Geneva Convention of 12 August 1949, and common article 3 of the Geneva Conventions of 12 August 1949.

adopting a national water strategy and plan of action to realize this right; ensuring that water is affordable for everyone; and facilitating improved and sustainable access to water, particularly in rural and deprived urban areas.

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

28. States parties should adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations.⁴³ Such strategies and programmes may include: (a) reducing depletion of water resources through unsustainable extraction, diversion and damming; (b) reducing and eliminating contamination of watersheds and water-related eco-systems by substances such as radiation, harmful chemicals and human excreta; (c) monitoring water reserves; (d) ensuring that proposed developments do not interfere with access to adequate water; (e) assessing the impacts of actions that may impinge upon water availability and natural-eco-systems watersheds, such as climate changes, desertification and increased soil salinity, deforestation and loss of biodiversity;⁴⁴ (f) increasing the efficient use of water by end-users; (g) reducing water wastage in its distribution; (h) response mechanisms for emergency situations; (i) and establishing competent institutions and appropriate institutional arrangements to carry out the strategies and programmes.

29. Ensuring that everyone has access to adequate sanitation is not only fundamental for human dignity and privacy, but is one of the principal mechanisms for protecting the quality of drinking water supplies and resources.⁴⁵ In accordance with the rights to health and adequate housing (see General Comments No. 4 (1991) and 14 (2000)) States parties have an obligation to progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account the needs of women and children.

International obligations

30. Article 2, paragraph 1, and articles 11, paragraph 1, and 23 of the Covenant require that States parties recognize the essential role of international cooperation and assistance and take joint and separate action to achieve the full realization of the HRTW.

31. To comply with their international obligations in relation to the HRTW, States parties have to respect the enjoyment of the right in other countries. International cooperation requires States parties to refrain from actions that interfere, directly or indirectly, with the enjoyment of the HRTW in other countries. Any activities undertaken within the State party's jurisdiction should not deprive another country of the ability to realize the HRTW for persons in its jurisdiction.⁴⁶

43 / See footnote 5 above, Agenda 21, chaps. 5, 7 and 18; and the World Summit on Sustainable Development, Plan of Implementation (2002), paras. 6 (a), (l) and (m), 7, 36 and 38.

44 / See the Convention on Biological Diversity, the Convention to Combat Desertification, the United Nations Framework Convention on Climate Change, and subsequent protocols.

45 / Article 14, para. 2, of the Convention on the Elimination of All Forms of Discrimination Against Women stipulates States parties shall ensure to women the right to "adequate living conditions, particularly in relation to [...] sanitation". Article 24, para. 2, of the Convention on the Rights of the Child requires States parties to "To ensure that all segments of society [...] have access to education and are supported in the use of basic knowledge of [...] the advantages of [...] hygiene and environmental sanitation."

46 / The Committee notes that the United Nations Convention on the Law of Non-Navigational Uses of Watercourses requires that social and human needs be taken into account in determining the equitable utilization of watercourses, that States parties take measures to prevent significant harm being caused, and, in the event of conflict, special regard must be given to the requirements of vital human needs: see arts. 5, 7 and 10 of the Convention.



32. States parties should refrain at all times from imposing embargoes or similar measures, that prevent the supply of water, as well as goods and services essential for securing the right to water.⁴⁷ Water should never be used as an instrument of political and economic pressure. In this regard, the Committee recalls its position, stated in its General Comment No. 8 (1997), on the relationship between economic sanctions and respect for economic, social and cultural rights.

33. Steps should be taken by States parties to prevent their own citizens and companies from violating the HRTW of individuals and communities in other countries. Where States parties can take steps to influence other third parties to respect the right, through legal or political means, such steps should be taken in accordance with the Charter of the United Nations and applicable international law.

34. Depending on the availability of resources, States should facilitate realization of the HRTW in other countries, for example through provision of water resources, financial and technical assistance, and provide the necessary aid when required. In disaster relief and emergency assistance, including assistance to refugees and displaced persons, priority should be given to Covenant rights, including the provision of adequate water. International assistance should be provided in a manner that is consistent with the Covenant and other human rights standards, and sustainable and culturally appropriate. The economically developed States parties have a special responsibility and interest to assist the poorer developing States in this regard.

35. States parties should ensure that the HRTW is given due attention in international agreements and, to that end, should consider the development of further legal instruments. With regard to the conclusion and implementation of other international and regional agreements, States parties should take steps to ensure that these instruments do not adversely impact upon the HRTW. Agreements concerning trade liberalization should not curtail or inhibit a country's capacity to ensure the full realization of the HRTW.

36. States parties should ensure that their actions as members of international organizations take due account of the Accordingly, States parties that are members of international financial institutions, notably the International Monetary Fund, the World Bank, and regional development banks, should take steps to ensure that the HRTW is taken into account in their lending policies, credit agreements and other international measures.

Core obligations

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

- a) To ensure access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease;
- b) To ensure the right of access to water and water facilities and services on a non-discriminatory basis, especially for disadvantaged or marginalized groups;
- c) To ensure physical access to water facilities or services that provide sufficient, safe and regular water; that have a sufficient number of water outlets to avoid prohibitive waiting times; and that are at a reasonable distance from the household;
- d) To ensure personal security is not threatened when having to physically access to water;
- e) To ensure equitable distribution of all available water facilities and services;
- f) To adopt and implement a national water strategy and plan of action addressing the whole population; the strategy and plan of action should be devised, and periodically reviewed, on the basis of a participatory and transparent process; it should include methods, such as HRTW indicators and

⁴⁷ / In General Comment No. 8 (1997), the Committee noted the disruptive effect of sanctions upon sanitation supplies and clean drinking water, and that sanctions regimes should provide for repairs to infrastructure essential to provide clean water.

benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all disadvantaged or marginalized groups;

g) To monitor the extent of the realization, or the non-realization, of the HRTW ;

h) To adopt relatively low-cost targeted water programmes to protect vulnerable and marginalized groups;

i) To take measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation;

38. For the avoidance of any doubt, the Committee wishes to emphasize that it is particularly incumbent on States parties, and other actors in a position to assist, to provide international assistance and cooperation, especially economic and technical which enables developing countries to fulfill their core obligations indicated in paragraph 37 above.

IV. VIOLATIONS

39. When the normative content of the HRTW (see Part II) is applied to the obligations of States parties (Part III), a process is set in motion, which facilitates identification of violations. The following paragraphs provide illustrations of violations of the HRTW.

40. To demonstrate compliance with their general and specific obligations, States parties must establish that they have taken the necessary and feasible steps towards the realization. In accordance with international law, a failure to act in good faith to take such steps amounts to a violation of the right. It should be stressed that a State party cannot justify its non-compliance with the core obligations set out in paragraph 37 above, which are non-derogable.

41. In determining which actions or omissions amount to a violation, it is important to distinguish the inability from the unwillingness of a State party to comply with its obligations in relation to the HRTW. This follows from articles 11, paragraph 1, and 12, which speak of the right to an adequate standard of living and the right to health, as well as from article 2, paragraph 1, of the Covenant, which obliges each State party to take the necessary steps to the maximum of its available resources. A State which is unwilling to use the maximum of its available resources for the realization of the HRTW is in violation of its obligations under the Covenant. If resource constraints render it impossible for a State party to comply fully with its Covenant obligations, it has the burden of justifying that every effort has nevertheless been made to use all available resources at its disposal in order to satisfy, as a matter of priority, the obligations outlined above.

42. Violations of the HRTW can occur through *acts of commission*, the direct actions of States parties or other entities insufficiently regulated by States. Violations include, for example, the adoption of retrogressive measures incompatible with the core obligations (outlined in para. 37 above), the formal repeal or suspension of legislation necessary for the continued enjoyment of the HRTW, or the adoption of legislation or policies which are manifestly incompatible with pre-existing domestic or international legal obligations in relation to the HRTW.

43. Violations through *acts of commission* include the failure to take appropriate steps towards the full realization of everyone's HRTW, the failure to have a national policy on water, and the failure to enforce relevant laws.

44. While it is not possible to specify a complete list of violations in advance, a number of typical examples relating to the levels of obligations, emanating from the Committee's work, may be identified:

a) Violations of the obligation to respect follow from the State party's interference with the HRTW. This includes, inter alia: (i) arbitrary or unjustified disconnection or exclusion from water services or facilities; (ii) discriminatory or unaffordable increases in the price of water; and (iii) pollution and

diminution of water resources affecting human health;

b) Violations of the obligation to protect follow from the failure of a State to take all necessary measures to safeguard persons within their jurisdiction from infringements of the HRTW by third parties.⁴⁸ This includes, inter alia: (i) failure to enact or enforce laws to prevent the contamination and inequitable extraction of water; (ii) failure to effectively regulate and control water services providers; (iv) failure to protect water distribution systems (e.g., piped networks and wells) from interference, damage and destruction; and

c) Violations of the obligation to fulfill occur through the failure of States parties to take all necessary steps to ensure the realization. Examples includes, inter alia: (i) failure to adopt or implement a national water policy designed to ensure the HRTW for everyone; (ii) insufficient expenditure or misallocation of public resources which results in the non-enjoyment of the HRTW by individuals or groups, particularly the vulnerable or marginalized; (iii) failure to monitor the realization of the HRTW at the national level, for example by identifying right-to-water indicators and benchmarks; (iv) failure to take measures to reduce the inequitable distribution of water facilities and services; (v) failure to adopt mechanisms for emergency relief; (vi) failure to ensure that the minimum essential level of the right is enjoyed by everyone (vii) failure of a State to take into account its international legal obligations regarding the HRTW when entering into agreements with other States or with international organizations.

V. IMPLEMENTATION AT THE NATIONAL LEVEL

45. In accordance with article 2, paragraph 1, of the Covenant, States parties are required to utilize “all appropriate means, including particularly the adoption of legislative measures” in the implementation of their Covenant obligations. Every State party has a margin of discretion in assessing which measures are most suitable to meet its specific circumstances. The Covenant, however, clearly imposes a duty on each State party to take whatever steps are necessary to ensure that everyone enjoys, as soon as possible. Any national measures designed to realize the HRTW should not interfere with the enjoyment of other human rights.

Legislation, strategies and policies

46. Existing legislation, strategies and policies should be reviewed to ensure that they are compatible with obligations arising from, and should be repealed, amended or changed if inconsistent with Covenant requirements.

47. The duty to take steps clearly imposes on States parties an obligation to adopt a national strategy or plan of action to realize. The strategy must: (a) be based upon human rights law and principles; (b) cover all aspects of the HRTW and the corresponding obligations of States parties; (c) define clear objectives; (d) set targets or goals to be achieved and the time-frame for their achievement; (e) formulate adequate policies and corresponding benchmarks and indicators. The strategy should also establish institutional responsibility for the process; identify resources available to attain the objectives, targets and goals; allocate resources appropriately according to institutional responsibility; and establish accountability mechanisms to ensure the implementation of the strategy. When formulating and implementing their HRTW national strategies, States parties should avail themselves of technical assistance and cooperation of the United Nations specialized agencies (see Part VI below).

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

49. The national water strategy and plan of action should also be based on the principles of accoun-

⁴⁸ / See para. 23 for a definition of “third parties”.

tability, transparency and independence of the judiciary, since good governance is essential to the effective implementation of all human rights, including the realization of the HRTW. In order to create a favorable climate for the realization of the right, States parties should take appropriate steps to ensure that the private business sector and civil society are aware of, and consider the importance of, the HRTW in pursuing their activities.

50. States parties may find it advantageous to adopt framework legislation to operationalize their HRTW strategy. Such legislation should include: (a) targets or goals to be attained and the time-frame for their achievement; (b) the means by which the purpose could be achieved; (c) the intended collaboration with civil society, private sector and international organizations; (d) institutional responsibility for the process; (e) national mechanisms for its monitoring; and (f) remedies and recourse procedures.

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

52. States parties are obliged to monitor effectively the realization. In monitoring progress towards the realization. States parties should identify the factors and difficulties affecting implementation of their obligations.

Indicators and benchmarks

53. To assist the monitoring process, HRTW indicators should be identified in the national water strategies or plans of action. The indicators should be designed to monitor, at the national and international levels, the State party's obligations under articles 11, paragraph 1, and 12. Indicators should address the different components of adequate water (such as sufficiency, safety and acceptability, affordability and physical accessibility), be disaggregated by the prohibited grounds of discrimination, and cover all persons residing in the State party's territorial jurisdiction or under their control. States parties may obtain guidance on appropriate indicators from the ongoing work of WHO, the Food and Agriculture Organization of the United Nations (FAO), the United Nations Centre for Human Settlements (Habitat), the International Labor Organization (ILO), the United Nations Children's Fund (UNICEF), the United Nations Environment Programme (UNEP), the United Nations Development Programme (UNDP) and the United Nations Commission on Human Rights.

54. Having identified appropriate HRTW indicators, States parties are invited to set appropriate national benchmarks in relation to each indicator.⁴⁸ During the periodic reporting procedure, the Committee will engage in a process of "scoping" the State party. Scoping involves the joint consideration by the State party and the Committee of the indicators and national benchmarks which will then provide the targets to be achieved during the next reporting period. In the following five years, the State party will use these national benchmarks to help monitor its implementation. Thereafter, in the subsequent reporting process, the State party and the Committee will consider whether or not the benchmarks have been achieved, and the reasons for any difficulties that may have been encountered (see General Comment No.14 (2000), para. 58). Further, when setting benchmarks and preparing their reports, States parties should utilize the extensive information and advisory services of specialized agencies with regard to data collection and desegregation.

49 / See E. Riedel, "New bearings to the State reporting procedure: practical ways to operationalise economic, social and cultural rights – The example of the right to health", in S. von Schorlemer (ed.), *Praxishandbuch UNO*, 2002, pp. 345-358. The Committee notes, for example, the commitment in the 2002 World Summit on Sustainable Development Plan of Implementation 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 who do not have access to basic sanitation.



Remedies and accountability

55. Any persons or groups who have been denied their right to water should have access to effective judicial or other appropriate remedies at both national and international levels (see General Comment No. 9 (1998), para. 4, and Principle 10 of the Rio Declaration on Environment and Development).⁵⁰ The Committee notes that the right has been constitutionally entrenched by a number of States and has been subject to litigation before national courts. All victims of violations of the HRTW should be entitled to adequate reparation, including restitution, compensation, satisfaction or guarantees of non-repetition. National ombudsmen, human rights commissions, and similar institutions should be permitted to address violations of the right.

56. Before any action that interferes with an individual's right to water is carried out by the State party, or by any other third party, the relevant authorities must ensure that such actions are performed in a manner warranted by law, compatible with the Covenant, and that comprises: (a) opportunity for genuine consultation with those affected; (b) timely and full disclosure of information on the proposed measures; (c) reasonable notice of proposed actions; (d) legal recourse and remedies for those affected; and (e) legal assistance for obtaining legal remedies (see also General Comments No. 4 (1991) and No. 7 (1997)). Where such action is based on a person's failure to pay for water their capacity to pay must be taken into account. Under no circumstances shall an individual be deprived of the minimum essential level of water.

57. The incorporation in the domestic legal order of international instruments recognizing the HRTW can significantly enhance the scope and effectiveness of remedial measures and should be encouraged in all cases. Incorporation enables courts to adjudicate violations of the HRTW, or at least the core obligations, by direct reference to the Covenant.

58. Judges, adjudicators and members of the legal profession should be encouraged by States parties to pay greater attention to violations of the HRTW in the exercise of their functions.

59. States parties should respect, protect, facilitate and promote the work of human rights advocates and other members of civil society with a view to assisting vulnerable or marginalized groups in the realization of their HRTW.

VI. OBLIGATIONS OF ACTORS OTHER THAN STATES

60. United Nations agencies and other international organizations concerned with water, such as WHO, FAO, UNICEF, UNEP, UN-Habitat, ILO, UNDP, the International Fund for Agricultural Development (IFAD), as well as international organizations concerned with trade such as the World Trade Organization (WTO), should cooperate effectively with States parties, building on their respective expertise, in relation to the implementation of the HRTW at the national level. The international financial institutions, notably the International Monetary Fund and the World Bank, should take into account the HRTW in their lending policies, credit agreements, structural adjustment programmes and other development projects (see General Comment No. 2 (1990)), so that the enjoyment of the HRTW is promoted. When examining the reports of States parties and their ability to meet the obligations to realize the HRTW, the Committee will consider the effects of the assistance provided by all other actors. The incorporation of human rights law and principles in the programmes and policies by international organizations will greatly facilitate implementation of the HRTW. The role of the International Federation of the Red Cross and Red Crescent Societies, International Committee of the Red Cross, the Office of the United Nations High Commissioner for Refugees (UNHCR), WHO and UNICEF, as well as non-governmental organizations and other associations, is of particular importance in relation to disaster relief and humanitarian assistance in times of emergencies. Priority in the provision of aid, distribution and management of water and water facilities should be given to the most vulnerable or marginalized groups of the population.

⁵⁰ / Principle 10 of the Rio Declaration on Environment and Development (Report of the United Nations Conference on Environment and Development, see footnote 5 above), states with respect to environmental issues that "effective access to judicial and administrative proceedings, including remedy and redress, shall be provided".

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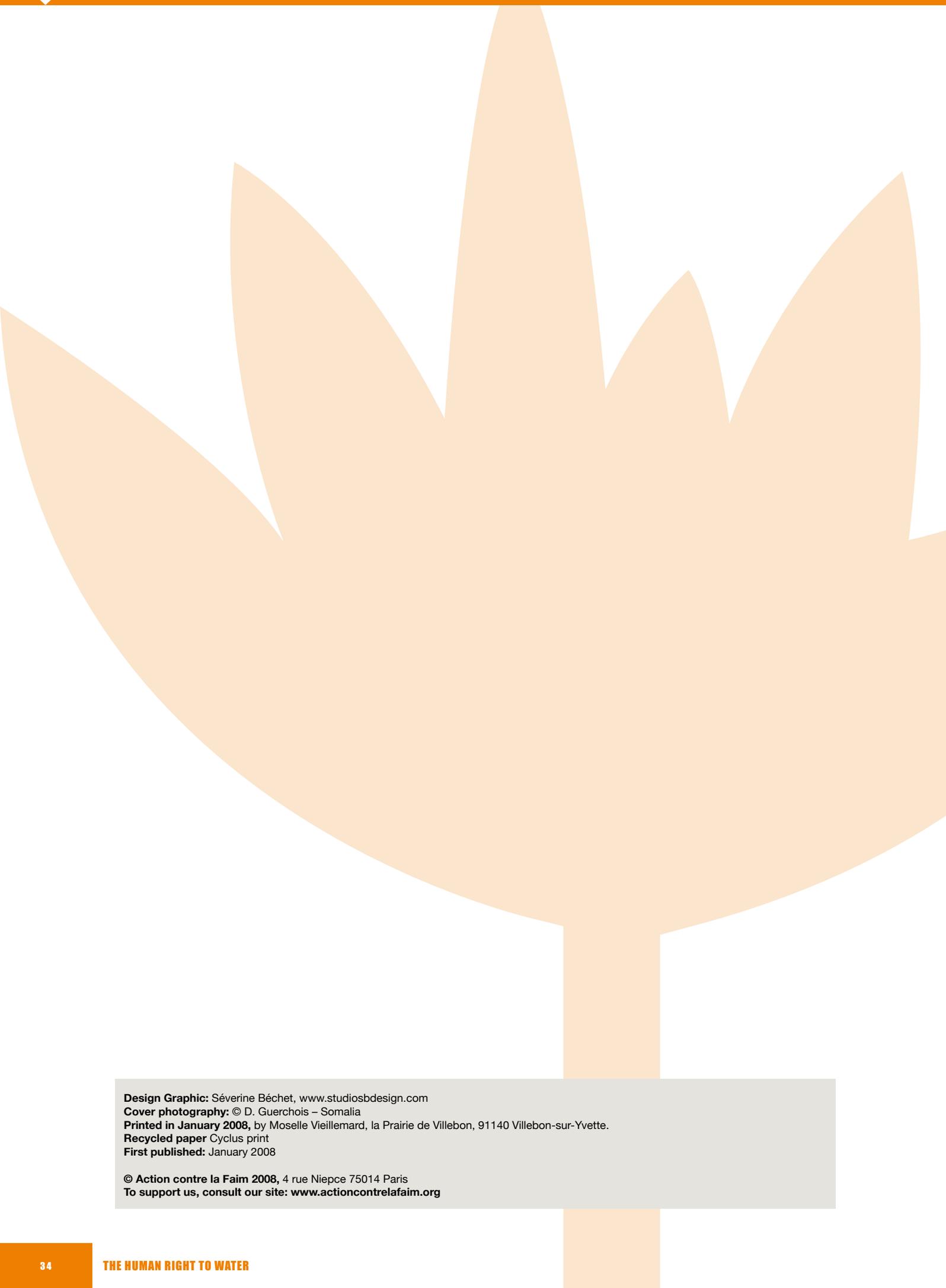
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