

# 11 INTERNATIONAL DISCUSSIONS ON THE PROGRESSIVE REALIZATION OF THE HUMAN RIGHTS TO SAFE DRINKING WATER AND SANITATION

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## 11.1 INTRODUCTION

I firmly believe that water-related issues have become increasingly urgent and important questions all over the world. Water, that covers about three fourths of the Earth's surface, is one of the important global issues related to the well-being of future generations. The importance of water for human dignity, health and social well-being, protection and promotion of human rights, economic and social development, poverty reduction and adaptation to climate change is indisputable. It is estimated that in order to meet basic needs, individuals require a minimum of 20 to 50 litres of safe water each day.<sup>1</sup> All human beings depend on a daily amount of safe water for existence, consumption and personal hygiene to avoid diseases. Despite the fact that water is necessary for life, the reality is that access to safe water is denied to billions of people worldwide. This leads to an increase in health and sanitation problems. Sustainable water resource limits have been exceeded in Western Asia and Northern Africa; whereas Southern Asia and the Caucasus and Central Asia are approaching water scarcity. In addition to this, the negative effects of climate change can also result in dramatic changes regarding the access to water. Numerous studies and statistical data show that the Earth's freshwater supplies become scarcer and increasingly polluted while population is growing (developing countries are particularly affected).<sup>2</sup>

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1 WHO and UNICEF, *Meeting the MDG Drinking Water and Sanitation Target: A Mid-Term Assessment of Progress* (Geneva, New York: WHO/UNICEF, 2004), <[www.who.int/water\\_sanitation\\_health/monitoring/en/jmp04.pdf](http://www.who.int/water_sanitation_health/monitoring/en/jmp04.pdf)> (last accessed on 12 December 2012).

2 Over 780 million people are still without access to improved sources of drinking water and 2.5 billion people lack improved sanitation. If current trends continue, these numbers will remain unacceptably high in 2015. 605 million people will be without an improved drinking water source and 2.4 billion people will lack access to improved sanitation facilities. Progress on drinking water and sanitation 2012 update, Publication date: March 2012 ISBN: 978 92 806 4632 0 <[http://whqlibdoc.who.int/publications/2012/9789280646320\\_eng\\_full\\_text.pdf](http://whqlibdoc.who.int/publications/2012/9789280646320_eng_full_text.pdf)> (last accessed on 12 December 2012).

Water resources are not only reduced but also the investments in infrastructure and water resource management are more and more expensive. The lack of appropriate measures gives rise to many socio-economic and water-related environmental problems. These can take several forms. The competition for water as a productive resource is intensifying and failure of privatization and the high price of water leads to new social inequalities.<sup>3</sup> According to the 2012 Joint Monitoring Programme of UNICEF and WHO report, between 1990 and 2010, 2 billion people gained access to *improved* drinking water services, but the water quality still remains a factor. It has been forecasted that more than 780 million people still do not drink *improved* water.<sup>4</sup> While the percent of population with access to improved facilities increased in all regions since 1990, the number of people living without any access to water has increased due to slow progress and population growth. In 2008, 2.6 billion people still had no access to improved sanitation facilities.<sup>5</sup> Briefly, lack of sanitation is an affront to human dignity. In addition to the outlined problems above, mention should also be made of access to water as a security issue. Parallel to the shrinkage of water sources, the potential for tensions between countries is growing.<sup>6</sup> Over the recent decades, the control over water resources has been a cause of wars; water-related tensions have been common in many parts of the world and are generally expected to increase in the years ahead.<sup>7</sup>

The United Nations system has an important role to play in supporting countries in delivering water and many other basic services to the population and in achieving the goals of reliable water and sanitation. In 2004 United Nations Secretary-General Kofi Annan established an Advisory Board on Water and Sanitation (hereinafter 'UNSGAB') to strengthen and promote global action on these issues.<sup>8</sup> The UNSG Advisory Board is an independent body established in order to advise the UN Secretary General, give input in the global dialogue process, raise global awareness, *e.g.* through mass media, to influence

3 See also, D. Shaw, *Water Resource Economics and Policy*, Edward Elgar Publishing, 2005 and I.T. Winkler, *The Human Right to Water; Significance, Legal Status and Implications for Water Allocation*, Hart Publishing, 2012.

4 *Ibid.*

5 <[www.unwater.org/statistics.html](http://www.unwater.org/statistics.html)> (last accessed on 12 December 2012).

6 *Compañía de Aguas del Aconquija S.A. and Vivendi Universal S.A. v. Argentine Republic*, ICSID, Case No. ARB/97/3; *Aguas del Tunari S.A. v. Republic of Bolivia*, ICSID Case No. ARB/02/3; *Suez, Sociedad General de Aguas de Barcelona S.A. and Interagua Servicios Integrales de Agua S.A. v. Argentine Republic*. See also, M. Khumprakob, 'The Vivendi-Argentina Water Dispute: ICSID Creates New Arbitration Tribunal to Hear the Longest Running Case on its Docket', 5 *Sustainable Development Law & Policy* 1, Art. 17.

7 *E.g.*, existing water conflicts in South and East Asia.

8 Former Prime Minister of Japan Ryutaro Hashimoto agreed to serve as Chair of the Board.

on the work in global, regional, national institutions at the highest level and take its own actions towards the UN *Millennium Development Goals* (hereinafter ‘MDGs’).<sup>9</sup> UNSGAB primarily focuses its work on helping to mobilize resources for water and sanitation towards the achievement of MDGs and the Johannesburg Plan of Implementation, and publicly mobilize support and advocate for actions while ensuring political visibility, to assess progress made towards the water and sanitation goals and advocate for improving the capacity of governments and the international system.<sup>10</sup>

One of the major events of the year 2012 was certainly the United Nations Conference on Sustainable Development – or Rio+20 – which took place in Rio de Janeiro, Brazil on 20-22 June 2012.<sup>11</sup> Among the topics of the conference was ‘water and sanitation’, which was a clear sign that the international community recognized the importance of peaceful and sustainable management and use of water resources.<sup>12</sup> In this conference, UN member states decided to launch a process to develop a set of Sustainable Development Goals (hereinafter ‘SDGs’) which will build upon the UN Millennium

9 The MDGs are drawn from the actions and targets contained in the UN Millennium Declaration that was adopted by 189 nations and signed by 147 heads of state and governments during the UN Millennium Summit in September 2000. MDGs recognize explicitly the interdependence between growth, poverty reduction and sustainable development. MDGs are based on time-bound and measurable targets accompanied by indicators for monitoring progress; and bring together, in the eighth goals. (Eradicating extreme poverty and hunger, Achieving universal primary education, Promoting gender equality and empowering women, Reducing child rates, Improving maternal health, Combating HIV/AIDS, malaria, and other diseases, Ensuring environmental sustainability, and Developing a global partnership for development.) The eight MDGs break down into 21 quantifiable targets that are measured by 60 indicators.

Goal 7: Ensure environmental sustainability,

*Target 7.C: Halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation.* Indicators for monitoring progress: 7.8 proportion of population using an improved drinking water source, 7.9 proportion of population using an improved sanitation facility. See Official list of MDG indicators <<http://mdgs.un.org/unsd/mdg/host.aspx?Content=indicators/officialist.htm>> (last accessed 12 November 2012).

10 Press Release SG/A/870 ENV/DEV/756 OBV/412, 22/03/2004.

11 As a side event of the Rio+20, on 26 April 2012, the Permanent Missions of Finland, Hungary and Tajikistan to the UN, Denmark’s Ministry of the Environment, and Portugal’s Ministry of Agriculture, Sea, Environment and Spatial Planning, known as the Rio+20 Friends of Water group.

12 Water and sanitation is the focus of Chap. 18 of Agenda 21. The Commission on Sustainable Development (CSD) at its second (1994) and sixth (1998) sessions made recommendations to support implementation of Chap. 18 and the UN General Assembly at its nineteenth Special Session reviewed the implementation of Agenda 21 (1997). The World Summit on Sustainable Development (2002) also discussed this subject through its Plan of Implementation. The CSD, at its twelfth session (2004) reviewed and assessed implementation of three thematic issues, including water and sanitation. In 2005, at its thirteenth session, the Commission explored policy options for furthering implementation on the issues of water and sanitation. It was also decided to monitor and follow up the implementation of CSD-13 decisions on water and sanitation, and their interlinkages in 2008 (CSD-16) and 2012 (CSD-20).

Development Goals and converge with the post 2015 development agenda.<sup>13</sup> This event may be considered a continuation of the earlier decisions of the United Nations bodies and forums namely: Agenda 21 of June 1992;<sup>14</sup> the Habitat Agenda of 1996;<sup>15</sup> the Mar del Plata Action Plan of 1977 adopted by the United Nations Water Conference;<sup>16</sup> the Rio Declaration on Environment and Development of June 1992;<sup>17</sup> the Resolution 54/175 of 17 December 1999 on the right to development; the Resolution 55/196 of 20 December 2000, by which it proclaimed 2003 the International Year of Freshwater;<sup>18</sup> the decision on the 'Water for Life' Decade (2005-2015)<sup>19</sup> and the decision on the International Year of Sanitation (2008).<sup>20</sup> The Decade of 'Water for Life' set the objective to promote efforts to fulfil international commitments made on water and water-related issues by 2015, taking into account the involvement and participation of women in these efforts. The International Year of Sanitation reaffirmed the need to assist developing countries' efforts to prepare integrated water resources management and water efficiency plans as part of their national development strategies and to provide access to safe drinking water and basic sanitation in accordance with the Millennium Declaration<sup>21</sup> and the Johannesburg

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- 13 In the Rio+20 outcome document, member states agreed that sustainable development goals (SDGs) must: Be based on Agenda 21 and the Johannesburg Plan of Implementation. Fully respect all the Rio Principles. Be consistent with international law. Build upon commitments already made. Contribute to the full implementation of the outcomes of all major summits in the economic, social and environmental fields. Focus on priority areas for the achievement of sustainable development, being guided by the outcome document. Address and incorporate in a balanced way all three dimensions of sustainable development and their interlinkages. Be coherent with and integrated into the United Nations development agenda beyond 2015. Not diverting focus or effort from the achievement of the Millennium Development Goals. Include active involvement of all relevant stakeholders, as appropriate, in the process. *See also, The Future We Want* <<http://sustainabledevelopment.un.org/index.php?menu=220>> (last accessed 12 December 2012).
- 14 Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, Vol. I, Resolutions Adopted by the Conference, United Nations publication, Sales No. E.93.I.8 and corrigendum, Res. 1, Ann. II.
- 15 Report of the United Nations Conference on Human Settlements (Habitat II), Istanbul, 3-14 June 1996, United Nations publication, Sales No. E.97.IV.6, Chap. I, Res. 1, Ann. II.
- 16 Report of the United Nations Water Conference, Mar del Plata, 14-25 March 1977, United Nations publication, Sales No. E.77.II.A.12, Chap. I.
- 17 Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, Vol. I, Resolutions Adopted by the Conference, United Nations publication, Sales No. E.93.I.8 and corrigendum, Res. 1, Ann. I.
- 18 UN International Years are declared by the United Nations since 1959 in order to draw attention on major issues and encourage international action to address concerns which have global importance and ramifications.
- 19 GA/RES/55/196, International Year of Freshwater, 20 December 2000. It was launched on 22 March 2005, on World Water Day <[www.un.org/waterforlifedecade](http://www.un.org/waterforlifedecade)> (last accessed on 12 December 2012).
- 20 A/C.2/61/L.16/Rev.1, Sixty-first session, Second Committee Agenda item 53 (a) Sustainable development: implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development, 4 December 2006.
- 21 To halve, by the year 2015, the proportion of the world's people whose income is less than one dollar a day and the proportion of people who suffer from hunger and, by the same date, to halve the proportion of people who are unable to reach or to afford safe drinking water (19.) Resolution adopted by the General Assembly (without reference to a Main Committee (A/55/L.2)) 55/2. United Nations Millennium Declaration.

Plan of Implementation,<sup>22</sup> including halving the proportion of people who are unable to reach or afford safe drinking water and who do not have access to basic sanitation by 2015.<sup>23</sup> In December 2010 the United Nations General Assembly declared the year 2013 as the United Nations International Year of Water Cooperation<sup>24</sup> based on a proposal from a group of countries initiated by Tajikistan and on the work of the High-level International Conference on the Midterm Comprehensive Review of the Implementation of the International Decade for Action, “Water for Life”, held in Dushanbe on 8 and 9 June 2010.<sup>25</sup>

### 11.2 THE ROAD LEADING TO THE PROGRESSIVE REALIZATION OF HUMAN RIGHT TO WATER AND SANITATION<sup>26</sup>

The Human Development Report 2006, *Beyond Scarcity: Power, poverty and the global water crisis* stated that like hunger, deprivation in access to water is a silent crisis experienced by the poor and tolerated by those with the resources, the technology and the political power to end it. Yet this is a crisis that is holding back human progress, consigning large segments of humanity to lives of poverty, vulnerability and insecurity. This crisis claims more lives through disease than any war claims through guns.<sup>27</sup>

This report also draws the attention to the necessity of making water a human right. The aim of this proposal is that all national and local governments make efforts to ensure the

22 Plan of Implementation of the World Summit on Sustainable Development, A/CONF.199/20.

23 Halve by 2015, the proportion of the population without sustainable access to safe drinking water and basic sanitation (MDGs, 7C).

24 GA Res. 65/154, International Year of Water Cooperation, 2013. The International Annual UN-Water Zaragoza Conference 2012/2013, ‘Preparing for the 2013 International Year. Water Cooperation: Making it Happen!’ that took place in Zaragoza, Spain, from 8 to 10 January 2013, focused on how to make cooperation happen. <[www.un.org/waterforlifedecade/water\\_cooperation\\_2013/agenda\\_water\\_cooperation.pdf](http://www.un.org/waterforlifedecade/water_cooperation_2013/agenda_water_cooperation.pdf)> (last accessed on 12 December 2012).

25 This Conference was focusing on six themes: (1) accelerating progress towards water-related internationally agreed development goals, including the Millennium Development Goals, ensuring the involvement of women; (2) transboundary water cooperation; (3) water quality; (4) water resources, adaptation to climate change and disaster risk reduction; (5) sustainable financing; and (6) integrated water resources management, energy, agriculture and food security. It highlights the importance to build resilience and reduce vulnerabilities to extreme events, namely, floods, droughts and other hydro-climatic hazards under the policy framework and guidance of the Hyogo Framework for Action (2005-2015): *Building the Resilience of Nations and Communities to Disasters*. See also, UN General Assembly document A/65/88: Dushanbe declaration on water.

26 The concept of ‘progressive realization’ comes from the International Covenant for Economic, Social and Cultural Rights, which requires each state to take steps “to the maximum of its available resources, with a view to achieving progressively the full realization of the rights (. . .)”. “The CESCR’s General Comment No.15 states that “state 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”.

27 <<http://hdr.undp.org/en/media/HDR06-complete.pdf>>. Overview, p. 1 (last accessed on 15 November 2012).

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appropriate legal environment to a secure, accessible and affordable supply of water. The report suggested that all governments should move beyond establishing vague constitutional principles by enshrining the human right to water in enabling legislation which is evident, because extending the human right to water is an obligation of the governments. To this end, the governments have to accord a high priority to water and sanitation and must promote water in becoming a key issue on the agenda of international, regional and local conferences.<sup>28</sup>

A number of international political declarations and resolutions at international and regional level were adopted on the right to water. These documents reflect that human rights demand a holistic understanding of access to water and sanitation. The Declaration of the United Nations Conference on the Human Environment, prepared in Stockholm between 5-16 June 1972, recognised that man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations.<sup>29</sup>

The Action Plan of the United Nations Water Conference held in Mar del Plata in 1977, stated that all people have the right to drinking water in quantities and of a quality equal to their basic needs.<sup>30</sup> The 4th Principle of the Dublin Statement entitled “Water has an economic value in all its competing uses and should be recognized as an economic good” adopted by the Dublin Conference on Water and Sustainable Development between 26-31 January 1992, particularly states that “within this principle, it is vital to recognize first the basic right of all human beings to have access to clean water and sanitation at an affordable price.” Chapter 18 on freshwater of the Agenda 21 of June 1992 states that water is needed in all aspects of life. The general objective is to make certain that adequate supplies of water of good quality are maintained for the entire population of this planet.<sup>31</sup>

It reflects upon the Mar del Plata Declaration by stating the commonly agreed premise was that all peoples, whatever their stage of development and their social and economic conditions, have the right to have access to drinking water in quantities and of a quality equal to their basic needs.

Among its objectives (18.8) Agenda 21 underlines that Integrated water resources management is based on the perception of water as an integral part of the ecosystem, a natural

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28 See also, *The Human Right to Safe Drinking Water and Sanitation in Law and Policy A Sourcebook*, Wash United, 2012; F. Sultana & A. Loftus (Eds.), *The Right to Water: Politics, Governance and Social Struggles*, Taylor & Francis, 2011; P.H. Gleick, ‘The Human Right to Water’, *Water Policy*, 1998, pp. 487-503.

29 Declaration of the United Nations Conference on the Human Environment, Principle 1.

30 Report of the United Nations Water Conference, Mar del Plata, 14-25 March 1977, United Nations publication, Sales No. E.77.II.A.12, Chap. I.

31 Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, Vol. I, Resolutions Adopted by the Conference, United Nations publication, Sales No. E.93.I.8 and corrigendum, Res. 1, Ann. II.

resource and a social and economic good, whose quantity and quality determine the nature of its utilization.<sup>32</sup>

As it has been mentioned before, the Millennium Declaration and Political Declaration of Johannesburg<sup>33</sup> urge to improve the efficient use of water resources and promote their allocation among competing uses in a way that gives priority to the satisfaction of basic human needs and balances the requirement of preserving or restoring ecosystems and their functions, in particular in fragile environments, with human domestic, industrial and agriculture needs, including safeguarding drinking water quality; [. . .] and [. . .] to speedily increase access to such basic requirements as clean water, sanitation, adequate shelter, energy, health care, food security and the protection of biodiversity.<sup>34</sup>

The 1994 Program of Action of the International Conference on Population and Development (hereinafter 'ICPD') states that "large segments of many populations remain at risk of infectious, parasitic and water-borne diseases" and explicitly recognizes the right to an adequate standard of living, including water and sanitation.<sup>35</sup> The Parliamentary Assembly of the Council of Europe (hereinafter 'PACE') has declared itself in favour of the human right to water.

Recognizing access to water as a fundamental human right could serve as an important tool to encourage governments to improve their efforts to meet basic needs and accelerate progress towards achieving the MDGs. A rights-based approach to water would be a very important means for civil society to hold their governments accountable for ensuring access to an adequate quantity of good quality water as well as sanitation.<sup>36</sup>

The PACE also declared that the Assembly reiterates the recommendations to member states made in Resolution 1449 (2005) and draws attention "to the urgency to take action to ensure access to water and sanitation for all; such access to water should be considered a fundamental human right [. . .]" The Assembly asked the Committee of Ministers to continue the involvement of the Council of Europe in this important issue and to support a rights-based approach to water.<sup>37</sup> In 2006 the Abuja Declaration first adopted by the Africa-South America Summit affirmed that "we shall promote the right of our citizens to have access to clean and safe water and sanitation within our respective jurisdictions."<sup>38</sup>

32 Agenda 21, Chap. 18 Protection of the quality and supply of freshwater resources: application of integrated approaches to the development, management and use of water resources <[www.africanwater.org/agenda\\_21.htm](http://www.africanwater.org/agenda_21.htm)> (last accessed 14 November 2012).

33 A/CONF.199/20 & A/CONF.199/20/Corr.1.

34 IV. Protecting and managing the natural resource base of economic and social development, 26.c. p. 27.

35 A/CONF.171/13: Report of the ICPD (94/10/18) (385k), Chap. VIII, Health, Morbidity and Mortality.

36 Recommendation 1731 (2006) of the PACE of the Council of Europe.

37 *Ibid.*

38 ASA 1st Summit Meeting which was held in Abuja, Nigeria in November 2006, VI. Water Resources, <[www.asasummit-abuja2006.org](http://www.asasummit-abuja2006.org)>.

In 2007, the first Asia-Pacific Water Summit in Japan adopted the ‘Message from Beppu’, which recognizes “people’s right to safe drinking water and basic sanitation as a basic human right”.<sup>39</sup> The third South Asian Conference on Sanitation (hereinafter ‘SACOSAN’) in 2008 reaffirmed through the Delhi Declaration that access to safe drinking water and basic sanitation constitutes a basic human right. The Delhi Declaration was signed by all the heads of delegations of the participating eight SAARC nations<sup>40</sup> and states in unequivocal terms the actions and commitments of all the nations towards recognising sanitation as a basic human right, and making full attempt towards achieving the sanitation-related national and millennium development goals by 2015. The declaration document also contains an Indicative Roadmap 2015, which outlines a nation-wise plan for achieving these national and millennium development goals.<sup>41</sup>

In principle, several international human rights conventions state provisions which could amount to an – implicit or explicit – recognition of the right to water. Among the International Bill of Human Rights, the Universal Declaration of Human Rights (hereinafter ‘UDHR’) states that everyone has the right to “a standard of living adequate for [his or her] health and well-being”, including food and housing.<sup>42</sup> The right to water is not explicitly recognised in this article, but *mutatis mutandis* these rights could not be realized without access to water. The International Covenant on Civil and Political Rights (hereinafter ‘ICCPR’) stipulates a number of rights the fulfilment of which requires access to water, e.g. “every human being has the inherent right to life”.<sup>43</sup> The International Covenant on Economic, Social and Cultural Rights (hereinafter ‘ICESCR’) also implicitly recognizes the right to water. The right to an adequate standard of living and the enjoyment of the highest attainable standard of physical and mental health, both enshrined in the ICESCR, have been officially interpreted by the Committee on Economic, Social and Cultural Rights (hereinafter ‘CESCR’) as to include the right to water.<sup>44</sup> The Convention on the Elimination

39 1st Asia-Pacific Water Summit – Water Security: Leadership and Commitment. Secretariat of the 1st Asia-Pacific Water Summit (Ed.), *Message from Beppu. The Proceedings of the 1st Asia-Pacific Water Summit* 2008, pp. 205-206.

40 The South Asian Association for Regional Cooperation (SAARC) was established on December 8 1985 to organize and unite the governments of its seven original members: Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka to promote mutual progress and development. Afghanistan later joined the SAARC in 2007 bringing the total number of members up to eight. There are also nine observer states: Australia, China, the European Union, Japan, Iran, Mauritius, Myanmar, South Korea, and the United States.

41 Third South Asia Conference on Sanitation (SACOSAN 2008), organised by Government of India, was held in New Delhi, during 16-21 November 2008, with the theme as ‘Sanitation for Dignity and Health’.

42 <[www.un.org/en/documents/udhr/index.shtml](http://www.un.org/en/documents/udhr/index.shtml)> (Last accessed on 12 December 2012).

43 Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Art. 49.

44 Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with Art. 27.



of All Forms of Discrimination Against Women (hereinafter ‘CEDAW’)<sup>45</sup> mentions water explicitly by stating that rural women have a right to adequate living conditions, including access to water, and the Convention on the Rights of the Child (hereinafter ‘UNICEF’) maintains that all children have a right to the highest attainable standard of health guaranteed *inter alia* through the provision of adequate clean drinking water.<sup>46</sup> The Convention on the Rights of Persons with Disabilities (hereinafter ‘CRPD’) recognizes “the right of persons with disabilities to social protection [. . .] including measures to ensure equal access by persons with disabilities to clean water.”<sup>47</sup> Attention should also be given to ILO Convention No. 161 of 1985 on Occupational Health Services.<sup>48</sup> These documents derived the right to water from other human rights, such as the right to life, the right to health, the right to food or the right to an adequate standard of living. Mention should also be made of the documents adopted on the regional level; the African Charters on Human and People’s Rights note the importance of assuring safe water to the population.<sup>49</sup> The African Charter on the Rights and Welfare of the Child (hereinafter ‘ACERWC’) in its Article 14, Health and Health Services, states that state parties shall undertake to pursue the full implementation of the rights under the Charter and in particular shall take measures to ensure the provisions of the Charter including that related to *adequate nutrition and safe drinking water*.<sup>50</sup> The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa<sup>51</sup> also includes specific provisions on access to water. Article 11 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) only generally states that “[. . .] everyone shall have the right to live in a healthy environment and

45 <[www.un.org/womenwatch/daw/cedaw/](http://www.un.org/womenwatch/daw/cedaw/)> (last accessed on 12 December 2012).

46 <[www.unicef.org/crc/](http://www.unicef.org/crc/)> (last accessed on 12 December 2012).

47 <[www2.ohchr.org/english/law/disabilities-convention.htm/](http://www2.ohchr.org/english/law/disabilities-convention.htm/)> (last accessed on 12 December 2012).

48 Art. 5: “Without prejudice to the responsibility of each employer for the health and safety of the workers in his employment, . . . occupational health services shall have such of the following functions . . .” (b) Surveillance of the factors in the working environment and working practice which may affect workers’ health, including sanitary installations [. . .].

49 See also, J. Oloka-Onyango, ‘Human Rights and Sustainable Development in Contemporary Africa: A New Dawn, or Retreating Horizons?’, 6 *Buffalo Human Rights Law Review*, 2000.

50 OAU Doc. CAB/LEG/24.9/49 (1990), entered into force 29 November 1999. As of November 2010, all member states of the AU have signed the Children’s Charter and all save for eight have ratified it. The eighth member states which have signed but not yet ratified the Charter are: Central African Republic, Democratic Republic of Congo, Sahrawi Arab Democratic Republic, Somalia, Sao Tome and Principe, Swaziland, South Sudan and Tunisia.

Art. 14: “1. Every child shall have the right to enjoy the best attainable standard of physical, mental and spiritual health. 2. States parties to the present Charter shall undertake to pursue the full implementation of this right and in particular shall take measures: [. . .] (c) To ensure the provision of adequate nutrition and safe drinking water.”

51 Art. 15: “Right to Food Security States parties shall ensure that women have the right to nutritious and adequate food. In this regard, they shall take appropriate measures to: (a) Provide women with access to clean drinking water (. . .).”

to have access to basic public services”.<sup>52</sup> Obligations may also be gleaned from other human rights instruments, as well as under humanitarian law (Geneva Conventions) and environmental law treaties. International humanitarian law stipulates obligations related to access to water and sanitation. The Geneva Conventions *inter alia* establish the right of civilians and prisoners of war to a standard of living adequate for health and well-being, including water for both drinking and sanitation purposes.<sup>53</sup>

The European Commission of the United Nations for Europe (hereinafter ‘UNECE’) Protocol on Water and Health to the 1992 Convention on the Use of Transboundary Watercourses and International Lake takes a holistic approach based on the understanding that water resources play an integral part in ecosystems as well as in human societies and economies.<sup>54</sup> According to the Protocol on Water and Health, each party has the obligation to establish and publish its national targets and the respective target dates for each target area within two years of becoming a party.<sup>55</sup> The document on ‘No one left behind: Good practices to ensure equitable access to water and sanitation in the pan-European region’ which was prepared by a drafting group of experts was discussed during the Workshop on equitable access to water and sanitation: Challenges, good practices and lessons learned (4-5 July 2011, Geneva) and then released for dissemination at the Sixth World Water Forum which was held in Marseille, France, on 13 March 2012. The human right to water and sanitation and water and health, including ensuring equitable access to water and sanitation was one of the main subjects. The Forum declared that since the recognition of the human right to water and sanitation by the General Assembly of the United Nations

52 P.R. Ghandhi (Ed.), *Blackstone’s Statutes, International Human Rights Documents*, 6th edn, Oxford University Press, pp. 381-387. See <[http://fds.oup.com/www.oup.co.uk/pdf/he/sample/ghandi\\_int\\_hr\\_docs.pdf](http://fds.oup.com/www.oup.co.uk/pdf/he/sample/ghandi_int_hr_docs.pdf)> (last accessed on 12 December 2012).

53 The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention [ . . . ]. Sufficient drinking water shall be supplied to prisoners of war [ . . . ]. (Art. 26.). Also, apart from the baths and showers with which the camps shall be furnished prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry; the necessary installations, facilities and time shall be granted them for that purpose (Art. 29). The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good health, likewise with the necessary clothing, shelter and medical attention (Art. 46). Convention (III) relative to the Treatment of Prisoners of War, Geneva, 12 August 1949. The Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, United Nations, Treaty Series, Vol. 75, No. 973.

54 <[www.unece.org/fileadmin/DAM/env/water/pdf/watercon.pdf](http://www.unece.org/fileadmin/DAM/env/water/pdf/watercon.pdf)> (last accessed on 14 November 2012). See also, The Water Convention: serving the planet; The Convention on the Protection and Use of Transboundary Watercourses and International Lakes aims to protect and ensure the quantity, quality and sustainable use of transboundary water resources by facilitating and promoting cooperation.

55 As far as Hungary concerned, most of the targets set and the framework for their implementation are determined by the EU requirements. After a first review of progress in 2008, the targets and target dates have been slightly amended. Most target areas under Art. 6.2 of Protocol have been covered. Some targets have not yet been set but planned. No target will be set under Art. 6.2.g (i) as it is not relevant. An extra target has been set related to the expected impact of climate change.

and the Human Rights Council in 2010, ensuring access to water and sanitation for all is no longer simply an aspiration: it is now a legal obligation for Governments. The right to water has been acknowledged by two expert bodies: the CESCR and the Sub-Commission for the Promotion and Protection of Human Rights. The General Comment No. 15 (2002): The right to water (Arts. 11 and 12) of the International Covenant on Economic, Social and Cultural Rights (CESCR) underlined that human right to water is indispensable for leading a life in human dignity.<sup>56</sup> It identified that the human right to water 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.<sup>57</sup>

The right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it has been one of the most fundamental conditions for survival.<sup>58</sup> The General Comment also emphasized that the right to water should also be considered in conjunction with other rights enshrined in the International Bill of Human Rights,<sup>59</sup> foremost amongst them the right to life and human dignity and the right to the highest attainable standard of health and the rights to adequate housing and adequate food as formulated in CESCR.<sup>60</sup>

As far as the normative content of the right to water is concerned, the CESCR Committee argued that *the right to water contains both freedoms and entitlements*. The freedoms include the right to maintain access to existing water supplies necessary for the right to water, and the right to be free from interference, such as the right to be free from arbitrary disconnections or contamination of water supplies.<sup>61</sup> By contrast, the entitlements include the right to a system of water supply and management that provides equal opportunity

56 The CESCR should adopt a General Comment on the right to sanitation as well.

57 Water, and water facilities and services, must be affordable for all. The United Nations Development Programme (UNDP) suggests that water costs should not exceed 3% of household income <[www.un.org/waterforlifedecade/human\\_right\\_to\\_water.shtml](http://www.un.org/waterforlifedecade/human_right_to_water.shtml)>. (last accessed on 15 November 2012).

58 E/C.12/2002/11, 20 January 2003.

59 The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and their Optional Protocols.

60 In the 1994 Programme of Action of the International Conference on Population and Development, states affirmed that all people have a right to an adequate standard of living, including adequate food, clothing, housing, water and sanitation, indicating that states defined the right to an adequate standard of living as including water and sanitation. <[www.un.org/waterforlifedecade/human\\_right\\_to\\_water.shtml](http://www.un.org/waterforlifedecade/human_right_to_water.shtml)> (last accessed on 15 November 2012).

61 See also, A. Khalfan, 'The human right to water: Recent progress and continuing challenges', 11 *Human Rights Tribune* 3, 2005, Special Feature – Economic, Social and Cultural (ESC) Rights, V. Roaf, A. Khalfan & M. Langford, *Monitoring Implementation of the Right to Water: A Framework for Developing Indicators*, Heinrich Böll Foundation, Berlin, 2005. <[www.canadians.org/water/documents/righttowaterindicators.pdf](http://www.canadians.org/water/documents/righttowaterindicators.pdf)> (last accessed on 23 February 2012).

for people to enjoy the right to water.<sup>62</sup> The adequacy of water was described in the terms of availability, quality, accessibility (physical accessibility,<sup>63</sup> economic accessibility, non-discrimination) and accessibility of information. As regards the states' obligations, the CESCR Committee referred to the general concept of the 'progressive realization' of the International Covenant for Economic, Social and Cultural Rights, which requires each state to take steps "to the maximum of its available resources, with a view to achieving progressively the full realization of the rights [. . .]" The General Comment No. 15 stressed that the state parties have a constant and continuing duty under the Covenant to move as expeditiously and effectively as possible towards the full realization of the right to water.<sup>64</sup>

The Committee pointed out that the right to water, like any human right, imposes three types of obligations on states parties: *obligation to respect*, *obligation to protect and obligation to fulfil*. 'The obligation to protect' demands that governments refrain from unjustly interfering with individuals' access to safe drinking water and sanitation. 'The obligation to respect' demands that governments ensure that third parties, including individuals, groups, corporations and other entities under their authority do not interfere with individuals' access to safe drinking water and sanitation. 'The obligation to fulfil' demands that states to adopt the necessary measures directed towards universal access to safe drinking water and sanitation.<sup>65</sup>

In 2006, the Sub-Commission on the Promotion and Protection of Human Rights built on the work of the Committee adopting the Guidelines for the Realization of the Right to Drinking Water and Sanitation. Following up on this impulse, in September 2007, the High Commissioner for Human Rights presented a study to the Human Rights Council on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments.<sup>66</sup> In its Decision 2/104 on Human Rights and Access to Water on 27 November 2006, the UN Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (hereinafter 'OHCHR'), to present a study on "the scope and content

62 E/C.12/2002/11, 20 January 2003, para. 10, p. 4.

63 Everyone has the right to a water and sanitation service that is physically accessible within, or in the immediate vicinity of the household, educational institution, workplace or health institution. According to WHO, the water source has to be within 1,000 metres of the home and collection time should not exceed 30 minutes.

64 *Ibid.*, para. 18, p. 8.

65 See Mr. Simon Walker's presentation on 'human rights obligations related to access to safe-drinking water and sanitation' and started by highlighting the following parameters of the Human Rights Council Decision 2/104 Human Rights and Access to Water.

66 Human Rights Council, Sixth session, Item 2 of the provisional agenda A/HRC/6/3, 16 August 2007; Report of the United Nations High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments. <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/136/55/PDF/G0713655.pdf?OpenElement>> (last accessed on 15 November 2012).

of the relevant human rights obligations related to equitable access to safe-drinking water and sanitation under international human rights instruments”.<sup>67</sup> The UN Human Rights Council requested the OHCHR to take into account the views of states and other stakeholders, to conduct within existing resources a detailed study on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments, which includes relevant conclusions and recommendations thereon, to be submitted prior to the sixth session of the Council.<sup>68</sup> As the result of a broad consultation process, almost a hundred responses were received from states, intergovernmental organizations, local governments, national human rights institutions, non-governmental organisations (hereinafter ‘NGOs’), the business sector, universities and individuals.<sup>69</sup> OHCHR also held a consultation on 11 May 2007 on ‘Human Rights and Access to Safe-Drinking Water and Sanitation’, which focused on the scope and content of human rights obligations to provide access to safe drinking water and sanitation. Pursuant to Human Rights Council decision 2/104 of 27 November 2006 on human rights and access to water, a report of the United Nations High Commissioner for Human Rights was submitted on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments.<sup>70</sup> In its conclusions the report stated that access to safe drinking water and sanitation is an issue of great importance to the international community. The considerable number of submissions received from Governments, intergovernmental organizations, national human rights institutions and civil society are evidence not only of the interest in this issue, but also of the growing recognition that access to safe drinking water and sanitation must be addressed within a human rights framework. [. . .] Importantly, an increasing number of states are recognizing safe drinking water as a human right in their constitutions, as well as national legislation, while national courts are enforcing it as a justiciable right.<sup>71</sup>

67 <[www2.ohchr.org/english/issues/water/docs/HRC\\_decision2-104.pdf](http://www2.ohchr.org/english/issues/water/docs/HRC_decision2-104.pdf)> (last accessed on 15 November 2012).

68 Council’s Dec. 2/104, Human Rights and Access to Water.

69 <[www2.ohchr.org/english/issues/water/contributions.htm](http://www2.ohchr.org/english/issues/water/contributions.htm)> (last accessed on 15 November 2012).

70 Human Rights Council Sixth session Item 2 of the provisional agenda A/HRC/6/3, 16 August 2007. The report is divided into five chapters. Chapter I review the legal framework and existing obligations related to equitable access to safe drinking water and sanitation. Chapters II, III and IV review the scope and content of the term “access to safe drinking water and sanitation”, the nature of States’ obligations in relation to access to safe drinking water and sanitation and the question of monitoring. Chapter V discusses issues needing further elaboration and Chapter VI sets out some conclusions and recommendations for consideration by the Council.

71 The High Commissioner: encouraged the Human Rights Council to continue its consideration of human rights obligations in relation to access to safe drinking water and sanitation as set out in the Report. The states, intergovernmental organizations, national human rights institutions, civil society and business enterprises were encouraged to identify good practices in the field of safe drinking water, sanitation and human rights and make them available to the Office of the United Nations High Commissioner for Human Rights. *Ibid.* pp. 25-26. <[www2.ohchr.org/english/issues/water/txpert/docs/A-CHR-6-3\\_August07.pdf](http://www2.ohchr.org/english/issues/water/txpert/docs/A-CHR-6-3_August07.pdf)> (last accessed on 14 November 2012).

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The report also highlighted that existing human rights instruments have provided the basis for expert human rights bodies to elaborate on states' obligations, but further efforts were needed to elaborate the normative content of human rights obligations in relation to access to sanitation; the human rights obligations attached to the elaboration of a national strategy on water and sanitation; the regulation of the private sector in the context of private provision of safe drinking water and sanitation; the criteria to protect the right to safe drinking water and sanitation in case of disconnection; and the specific obligations of local authorities.<sup>72</sup> The UN General Assembly on its 108th plenary meeting on 28 July 2010 adopted a historic Resolution 64/292, which recognized access to clean water and sanitation as a human right.<sup>73</sup> The resolution acknowledged the importance of equitable access to safe and clean drinking water and sanitation as an integral component of the realization of all human rights. The resolution recognized "the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights".<sup>74</sup> These resolutions built on General Comment No. 15: The right to water, which stated as described above that a human right to water existed under the International Covenant on Economic, Social and Cultural Rights and that the right to water was 'inextricably related' to the existing rights to an adequate standard of living and to health. Comment 15 also defined the right to water as every person's entitlement to "sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses". The resolution called upon states and international organizations to provide financial resources, capacity-building and technology transfer, through international assistance and cooperation, in particular to developing countries, in order to scale up efforts to provide safe, clean, accessible and affordable drinking water and sanitation for all.

Based on the above-mentioned Resolution 64/292 of the General Assembly, on 30 September 2010, the Human Rights Council in Geneva adopted a resolution on 'The human right to safe drinking water and sanitation'. In Resolution 15/9, it affirmed that the human right to water and sanitation was derived from the right to an adequate standard of living and was inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity.

In 2008, the United Nations appointed an independent expert, as *Special Rapporteur on the human right to safe drinking water and sanitation*. Catarina de Albuquerque had a mandate for a three-year term; which was extended in 2011 for another three years.<sup>75</sup> The mandate of the Special Rapporteur on the human right to safe drinking water and sanitation was established to examine the aforementioned crucial issues and provide

<sup>72</sup> *Ibid.*

<sup>73</sup> GA/RES/64/292.

<sup>74</sup> GA/RES/64/292, The human right to water and sanitation.

<sup>75</sup> <[www.ohchr.org/EN/Issues/WaterAndSanitation/SRWWater/Pages/CatarinaDeAlbuquerque.aspx](http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWWater/Pages/CatarinaDeAlbuquerque.aspx)> (last accessed 15 November 2012).

recommendations to governments, to the United Nations and other stakeholders. The Special Rapporteur on the human right to safe drinking water and sanitation carries out thematic research, undertakes country missions, collects good practices and works with development practitioners on the implementation of the rights to water and sanitation. In her last report, prepared for the Human Rights Council's 21st session in 2012, the Special Rapporteur focused on the issue of stigmatization in the realization of the rights to water and sanitation. The Special Rapporteur on the human right to safe drinking water and sanitation explored the deep, yet often ignored connections that exist between social stigma and violations of the human rights to water and sanitation. The report examines different manifestations of stigma, and situates these in the human rights framework considering, in particular, human dignity, the human rights to water and sanitation, non-discrimination, the prohibition of inhumane or degrading treatment and the right to privacy. It explores recommendations for policy-making and solutions to prevent and respond to human rights violations resulting from stigma.<sup>76</sup> The Special Rapporteur on the human right to safe drinking water and sanitation plans to develop a practical guidance on the implementation of the human rights to water and sanitation, which will provide detailed guidance, as well as examples of good practices, on what is expected from states and other stakeholders regarding the implementation of these rights.<sup>77</sup>

It has been shown that the right to water has an important input for the development of human rights at both the international and national levels. By all odds some steps were made. At the initial Rio+20 negotiations in 2011 several human rights and NGOs warned that the human right to water and sanitation was under threat. This started when the UK, working within the European Union (hereinafter 'EU'), first proposed to delete para. 67 from the zero draft. On 12 September 2012, in the statement delivered by Special Rapporteur on the right to safe drinking water and sanitation – responses to Human Right Council questions – Catarina de Albuquerque welcomed the statement made by the European Union recognizing for the first time the human right to water and sanitation as a component of the right to an adequate standard of living. She also welcomed the statement by the United Kingdom specifically recognising the human right to sanitation.<sup>78</sup> It should

76 <[www.ohchr.org](http://www.ohchr.org)> (last accessed on 15 November 2012).

77 In the form of a 'handbook' or a similar instrument.

78 The human right to sanitation: The right to sanitation is an element of "the right of everyone to an adequate standard of living for himself and his family" (Art. 11 of the International Covenant on Economic, Social and Cultural Rights or ICESCR). The UK considers that a right to sanitation entails achieving the outcome of providing a system for the treatment and disposal or re-use of human sewage and associated hygiene. It entitles right-holders to reasonable access to the elements of the right, but allows for recovery of the cost of providing such access, including any environmental and resource costs. The right does not prescribe any particular model of delivery for public and private sectors. It also does not require the collection and transport of human waste. However, in their interpretation of this right, the government excludes "the collection and transport of human waste". It also does not accept, in their entirety, specific U.N. documents on the right to water and sanitation. <[www.fco.gov.uk/resources/en/pdf/global-issues/human-rights/human-right-sanitation270612](http://www.fco.gov.uk/resources/en/pdf/global-issues/human-rights/human-right-sanitation270612)> (last accessed 15 November 2012).

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be pointed out that the United Kingdom had originally abstained from voting on the resolution on the right to water and sanitation at the UN General Assembly in 2010. Then they stated that the UK did not believe that there was a sufficient legal basis under international law to declare sanitation as a human right. In terms of the next steps and activities for the next two years under her mandate, the Special Rapporteur envisaged an even stronger focus on implementation. Canada, later joined by the United States and Israel, continued to call for the deletion of para. 67. Intense lobbying, supported by UN High Commissioner for Human Rights Navanethem Pillay, “*Rio+20: “Do not betray your commitments on the human right to water and sanitation”*”<sup>79</sup> calling for human rights to be protected in the Rio negotiations finally convinced Canada to drop its opposition to the recognition of water and sanitation as a human right. The statement of Catarina de Albuquerque, namely, “In order to achieve the future we want, we need to again underline our commitments to the human right to water and sanitation. We need to speak up for the millions who are marginalized and forgotten – people sleeping on the street, girls who walk miles to fetch water every day, boys who drop out of school because of diarrhoea, people who cannot access water because of their disabilities” was reinforced by Navanethem Pillay’s open letter.<sup>80</sup> European Union High Representative for Foreign Affairs and Security Policy, Catherine Ashton stated in March 2011 that the EU acknowledges the recent recognition of the human right to water and sanitation by the UN General Assembly, and the Human Rights Council’s specification that this right is part of the human right to an adequate standard of living.<sup>81</sup>

Catherine Ashton also mentioned that the European Union reaffirmed that all states bear human rights obligations regarding access to safe drinking water, which must be available, physically accessible, affordable and acceptable. The EU also recognizes that the human rights obligations regarding access to safe drinking water and to sanitation are closely related with individual human rights – as the rights to housing, food and health.<sup>82</sup>

But even more than being related to individual rights, access to safe drinking water is a basic element of the right to an adequate standard of living and is closely related to human dignity. The EU acknowledges the fact that several United Nations bodies, civil society organizations, experts, practitioners, governments and others call for a broader recognition

79 N. Pillay, Open Letter, 30 March 2012.

80 <[www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12000&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12000&LangID=E)> (last accessed 15 November 2012).

81 Declaration by the High Representative, Catherine Ashton, on behalf of the European Union on the occasion of the World and European Water Day (17th World Water Day and the 2nd annual European Water Day). <[www.iewy.com/20472-declaration-by-the-high-representative-catherine-ashton-on-behalf-of-the-european-union-on-the-occasion-of-the-world-and-european-water-day.html](http://www.iewy.com/20472-declaration-by-the-high-representative-catherine-ashton-on-behalf-of-the-european-union-on-the-occasion-of-the-world-and-european-water-day.html)> (last accessed 15 November 2012).

82 *Ibid.*



of the human right to water. Access to adequate and safe sanitation constitutes one of the principal mechanisms for protecting the quality of drinking water.

The EU applauds the efforts taken by some countries – including a number of EU member states – to improve this tragic situation, by taking specific measures, including legislative ones, at the national and international levels to improve access to safe drinking water and to sanitation.<sup>83</sup>

### 11.3 CONCLUSIONS

Notwithstanding the Human Rights Council's 2010 resolution and declarations on the human right to water, discussions continue over how useful a rights approach really is. The latest study presented by the UN High Commissioner for Human Rights to the Human Rights Council specifically affirmed the necessity to do further research on human rights, e.g. the right to water in the context of trade and investment agreements. The abuse, mismanagement and treatment of water, climate change and environmental destruction also need further studies. Under international law, there is no clear consensus on this new right; there is no legally binding result so far. The clear definition of the right to water could strengthen its position among human rights and an appropriate regulation of access to water could be a powerful tool to reduce poverty and eliminate discrimination and social injustice. In order to change the current situation, human rights and development policies must be more effective by explicitly recognizing the right to water under international law in order to promote the world population's access to its vital needs. There is a need for a new UN Convention<sup>84</sup> on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and levels of sanitation. The examination of the different hypotheses should deliver new legal arguments in favour of including the right to water in positive international law on human rights.<sup>85</sup> As the study prepared by the World Water Council stated: "The implementation of the right to water requires a clear definition of rights, obligations and responsibilities of each stakeholder, the identification of an authority to oversee the implementation of this right, as well as the allocation of adequate human and financial resources".<sup>86</sup>

83 *Ibid.*

84 See also <[www.unwater.org/index.html](http://www.unwater.org/index.html)> (last accessed on 20 December 2012).

85 See also New source book on the human right to safe drinking water and sanitation, 2012, WASH United, together with Freshwater Action Network and Waterlex, have published a comprehensive source book on laws and policies guaranteeing the human right to safe drinking water and sanitation at national, regional and international levels.

86 C. Dubreuil, *The Right to Water: From concept to implementation*, World Water Council, 2006, Summary para. 6. <[http://waterwiki.net/images/6/6e/The\\_Right\\_To\\_Water\\_-\\_From\\_Concept\\_to\\_Implementation.pdf](http://waterwiki.net/images/6/6e/The_Right_To_Water_-_From_Concept_to_Implementation.pdf)> (last accessed on 17 December 2012).

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In the absence of a binding international convention, access to water could not yet be considered as an enforceable basic human right. The lack of clean drinking water and sanitary facilities is the key hallmark of poverty, and if nothing changes *de facto* to improve that situation, this could lead to further social and political unrest and environmental pollution. In practice, much will depend on the political will of the states and on how the states implement the new rules in their national law. Much work remains to be done about the impact of privatization on access to safe drinking water and sanitation. To change the present situation, further consultations would be necessary with a wide range of stakeholders and with different actors to discuss the scope and content of human rights obligations related to access to safe drinking water and sanitation under international human rights instruments. It is indispensable that further steps be taken to ensure the full exercise and progressive enhancement of the right to water and sanitation, including the formulation, adoption and implementation of policy, legislative and other measures at the national and international levels.