



**Economic and Social  
Council**

Distr.  
GENERAL

E/CN.4/2006/NGO/83  
28 February 2006

ENGLISH ONLY

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COMMISSION ON HUMAN RIGHTS  
Sixty-second session  
Item 10 of the provisional agenda

**ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Written statement\* submitted by Human Rights Advocates,  
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 February 2006]

\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.06-11236

## **The Right to Water**

1. The Commission on Human Rights, under Agenda Number 10, will address the right to water at its sixty-second session this year.

2. Human Rights Advocates submits this written statement, strongly emphasizing the need to recognize the right to water as a fundamental human right; the need for the appointment of a Special Rapporteur; the need to finalize and adopt a set of guidelines for the realization of the right to drinking water supply and sanitation; and the need of governments to move expeditiously and effectively towards the full realization of the right to water, including the prevention of third party interference with the enjoyment of that right to water.

### The Right of Water Must Be Recognized By All International Bodies

3. According to the World Commission on Water for the 21<sup>st</sup> Century, over 1 billion people are without access to clean water. The United Nations estimates that if current trends in water systems continue, by 2025, more than two-thirds of the world's population will not have access to enough water. To protect the world population from this growing threat, the international community must act now and formally recognize the fundamental human right to water.

4. Water is a limited natural resource and the human right to water is a prerequisite for the realization of other human rights, such as the right to the highest attainable standard of health (Article 12, Paragraph 1 of the ICCPR) and the right to adequate housing and adequate food (Article 11, Paragraph 1 of the ICCPR). Several international conventions, such as the Convention on the Elimination of All Forms of Discrimination Against Women (Article 14, Paragraph 2) and the Convention of the Rights of the Child (Article 24, Paragraph 2), have explicitly recognized the right to water as a fundamental human right, it must be recognized by all international bodies in order to hold State parties accountable for all violations of the right. Although the Committee on Economic, Social, and Cultural Rights has previously recognized water as a fundamental human right in General Comment No. 15 (2002), many governments have not implemented their obligations to provide equitable access to clean water supplies. The Commission's recognition of the right to water and its movement to develop and adopts standards on government and private sector obligations are urgently needed to ensure that global community address this growing crisis.

5. Pursuant to General Comment No. 15 (2002), the right to water includes the obligation to guarantee that the right is enjoyed by all without discrimination and to protect the vulnerable members of society with the adoption of relatively low-cost targeted programs. The right to water includes components of the duties to respect, protect, and fulfill. The obligation to respect requires State parties to abstain from interfering, directly or indirectly, with the enjoyment of the right to water. The obligation to protect requires State parties to prevent third party interference (including private corporations) with the enjoyment of the right to water. Additionally, to prevent an abuse of this obligation, State parties must adopt an effective regulatory system which includes independent monitoring, legitimate public participation, and penalties for non-compliance. The obligation to fulfill requires State parties to adopt the necessary measures to ensure the full realization of the right to water.

6. State parties are also beginning to recognize the right. For example, in 2004, a successful public referendum in Uruguay enacted the human right to water into its Constitution, with over

sixty-four percent of the population voting in favor of the amendment. Also, the proposed Kenyan Constitution of 2005 recognizes the right to water and sanitation. While these advances are to be applauded, the broader recognition of the right to water must continue to be forthcoming around the world.

7. Bolivia's struggles with water privatization illustrate the tense intersection of the right to water, privatization, the loan conditions imposed by the World Bank and the International Monetary Fund, corporate accountability and state's obligations to protect and promote the right to water. Following the World Bank's loan condition of \$14 million dollar to the city of Cochabamba and \$600 million in international debt relief to Bolivia's president if the city of Cochabamba's water system was privatized, sole-bidder Bechtel leased the city's water system until the year 2039. In the weeks subsequent, some water bills had increased by 200% and higher. Fervent resistance was posed by citizens, eventually erupting in a general strike and subsequent violence in the city of Cochabamba, resulting in the government rescinding the contract. Bechtel fired back in November 2001, launching a \$25 million suit against Bolivia at the International Centre for Settlement of Investment Disputes – ICSID (a non-transparent forum) operated by the World Bank. On January 19, 2006, Bechtel agreed to drop their case in the ICSID for a token payment of 2 bolivianos – approximately .30 USD.<sup>1</sup>

8. Argentina faces a similar predicament as it too privatized its water system and is now facing a lawsuit. In 1993, the Suez company was the leader in a contract to supply Buenos Aires with water. Within 10 years, water rates had increased 177% with the corporation receiving lucrative profits while residents' right to water was violated daily by the fact that many were denied access to water due to their inability to pay their water bills. In addition, Suez delayed construction on a sewage treatment plant which resulted in waste being dumped into local water sources, directly violating the right to water which encompasses the right to adequate, clean water. Less than 10 years later, in the face of Argentina's financial crisis of 2001, Suez demanded the establishment of a fixed dollar-peso exchange rate. Based on the inability of the Argentine government to comply, Suez, with the backing of the World Bank, is suing the government of Argentina to recover its lost monies. Interestingly enough, the World Bank encouraged privatization of Argentina's water systems, issuing loans worth \$911 million dollars and purchasing a 5% share of the water company, Aquas Argentina.<sup>2</sup>

9. Following the end of apartheid in South Africa, a new constitution was drafted which recognized access to drinking water as a right of citizenship. However, with the strong encouragement of and leverage exuded by the World Bank, the government of South Africa privatized its water system. Water became a commodity and water and government subsidy ended. Private water companies began requiring residents to pay for water that they used to obtain for free, subsequently reducing or eliminating access to water for some. Furthermore, as residents became unable to pay their increasing water bills, the method of delivery changed – requiring residents to pay upfront for their water. Some companies instituted requirements based on pre-paid meters. These regulations forced local residents, who were unable to afford to pay for water, to seek and obtain water from other unhealthy and unsanitary means – lakes and rivers. This alternative led to the cholera outbreak, resulting in almost 300 deaths and affecting

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<sup>1</sup> *Bechtel v. Bolivia*, The Democracy Center, <http://www.democracycctr.org/bechtel/bechtel-vs-bolivia.htm> (last viewed January 24, 2006) 1-2, 3.

<sup>2</sup> *Critical Mass Energy Program: Argentina*, Public Citizen, [http://www.citizen.org/cmep/Water/cmep\\_Water/reports/argentina/index.cfm](http://www.citizen.org/cmep/Water/cmep_Water/reports/argentina/index.cfm) (last viewed January 19, 2006) 1, 3.

approximately 350,000 residents.<sup>3</sup> These deadly results helped the people of the town of Ngwelezane receive a low, flat rate for their water, allowing all to have access to water.<sup>4</sup>

10. Governments, water providers, and international organizations are faced with the urgent obligation to guarantee all humans the most fundamental of basic water needs and develop the necessary institutional, economic and management strategies necessary to meet those goals.

11. Governments need to develop global standards to hold corporations accountable for all human rights violations, including the right to water. The adoption of concrete standards for the realization of the right to drinking water and sanitation should explicitly demand State parties to ensure that corporations do not interfere with the enjoyment of the right to water and sanitation or any other human rights and that privatization schemes be regulated by governments to guarantee the protection of human rights. Standards can ensure that corporations violating human rights are subject to the appropriate consequence.

12. California based East Bay Municipal Utility District (EBMUD) is an effective, working example of a publicly owned utility providing approximately 1.2 million water and wastewater treatment in Northern California. EBMUD is a publicly owned utility, formed under the Municipal Utility District Act, passed by the California Legislature in 1921. The Act facilitates a working relationship between the federal government, the local state government, and EBMUD in ensuring equal access and the highest water quality to all served within EBMUD's jurisdiction.

#### Recommendations

13. Human Rights Advocates urges the Commission on Human Rights to:

1. Recognize the fundamental human right to water;
2. Appoint a Special Rapporteur to assist governments in developing global standards to ensure fulfillment of the right to water, including standards that can assist governments in preventing international institutions, such as the IMF and the World Bank, from pressuring officials into adopting privatization schemes that distort or prevent governments from fulfilling this right;
3. Promote implementation of the right to water as iterated by the ICESCR;
4. Promote global standards of corporate accountability.

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<sup>3</sup> *Whose Hand on the Tap? Water Privatization in South Africa*, CBC News – Indepth: Water Privatization, <http://www.cbc.ca/news/features/water/southafrica.html> (last viewed January 16, 2006) 7, 14.

<sup>4</sup> *Id.*