



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2004/NGO/99
3 March 2004

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Item 7 of the provisional agenda

THE RIGHT TO DEVELOPMENT

**Written statement* submitted by Human Rights Advocates, Inc. (HRA),
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.

[30 January 2004]

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

Right to Development and Water

1. The right to water remains a critical component of the right to development, as evidenced by the Millennium Declaration's explicit reference to the necessity of water for sustainable development. The World Health Organization (WHO) estimates that 1.1 billion people lacked access to an improved water supply and 2.4 billion people lacked access to improved sanitation in 2000. Tragically, children under five account for 90% of the 2.2 million deaths each year caused by inadequate water and sanitation.¹ Over the next 20 years, up to 118 million people will die from water related deaths unless the world community takes meaningful action to improve access to water and sanitation.²
2. The most important factor affecting realization of the right to water worldwide remains household distance to a water source, or level of service, as defined by WHO. Improving availability of safe drinking water and sanitation has been shown to decrease episodes of diarrhea in children by 26%, guinea worm infection by 78%, schistosomiasis by 77%, and overall child mortality by 55%.³ In rural areas, states can increase availability of water through installation of tube wells or promotion of point-of-use water treatment.⁴ In many urban areas, improving leaky water distribution systems and promoting various conservations efforts could be used to increase the availability of water for all residents.^{5,6}
3. High levels of nitrates, pesticides, and heavy metals now contaminate many groundwater sources around the world, exposing billions of people to increased risks of cancer and other diseases. By establishing fines for dumping of untreated industrial wastes into rivers and lakes, and by promoting a variety of sustainable farming methods, states can effectively decrease the severity of groundwater pollution and better protect the health of their citizens.⁷
4. Water is also necessary for the production of food, and water shortages contribute greatly to undernourishment in many areas, as noted by the Special Rapporteur on the Right to Food. Though massive irrigation projects significantly increased the production of food during the 20th century, they have also had tremendous negative consequences, including massive displacement of entire communities.⁸ States can increase the availability of water for agriculture by promoting high efficiency irrigation systems,⁹ locally appropriate rainwater harvesting techniques,¹⁰ and low-cost methods of wastewater treatment.¹¹
5. Currently, Bangladesh faces one of the most severe environmental emergencies in human history, with between 35 and 77 million individuals at risk of exposure to drinking water contaminated with naturally occurring arsenic. Already, more than 100,000 people have been diagnosed with the debilitating skin lesions of arsenicosis, and up to 10% of all future deaths could be due to arsenic related cancers.¹²
6. Until recently, the provision of water and sanitation services was handled by the public sector in most countries.¹³ Conventional wisdom held that such critical infrastructure services were "public goods" addressing "basic needs" and accordingly, it would be inadvisable to allow the private sector to control these services.¹⁴ The Committee on Economic, Social, and Cultural Rights (CESCR) recognized in General Comment 15 that water "should be treated as a social and cultural good, and not primarily as an economic good."¹⁵ In the past twenty years,

however, there has been a movement towards limited privatization due to the poor performance of publicly held utilities.¹⁶

7. The right to water imposes obligations upon States regardless of whether they have delegated infrastructure provision to the private sector. In General Comment 15, the Committee declares that the right to water “entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water.”¹⁷ States must refrain from interfering with the enjoyment of the right to water and prevent third parties from interfering as well.¹⁸

8. Privatization can cause inequitable distribution of water resources. First, centralized political systems are particularly susceptible to incentive structures that do not value public welfare.¹⁹ Second, privatization creates the risk that private companies will only provide profitable services and eliminate unprofitable ones. Third, privatization strategies are often designed and implemented too quickly, without due regard for the particular requirements of each country. Though privatization has potential long-term value, implementation should not be done in the “blue print” approach prevalent today, but rather “should be ‘adjusted’ to the needs and conditions” in each country.²⁰

9. Although South Africa still faces serious human rights issues with respect to water privatization, its implementation of the right to water in its Constitution and domestic law has ensured more equitable access to rural and urban water supply and means that these issues can be addressed through the courts via a more democratic process of public participation and a complaints procedure.

Right to Development and Child Soldiers

10. Despite recent advances within international law and peace-building, the Secretary-General reported in November 2003 that “[c]hildren are being recruited and used as child soldiers on a massive scale. Girls face additional risks, particularly sexual violence. These egregious violations of children’s rights take place in a pervasive climate of impunity.”²¹

11. There is an inextricable link between development and child soldiers. Firstly, lack of development creates the conditions for children to be drawn into armed conflict. Poverty is both the principal motive for children voluntarily joining an armed group and also the principal reason for children being unable to escape abduction or compulsory conscription. Secondly, the involvement of children in armed conflict threatens development. Just as poverty begets conflict, conflict begets poverty. Education, the primary motor for development, is forfeit, communities are fractured, and children are left brutalized and on the margins of society.

12. HRA supports the belief of the Special Representative for Children and Armed Conflict that this issue needs to be a “cross-cutting theme” within the human rights framework. The problem should thus be addressed by articulating the positive obligations of duty-holders to create the conditions for development under which such abuses of children will not take place. This requires effective policies that respect, promote and fulfill the broader human rights of these children such as the right to be with family and community and the rights to health and education.

HRA Recommends that the Commission:

13. Affirm the basic human right to water as elaborated in General Comment 15 of the CECSR and urge all states to immediately fulfill their obligations toward this right, including establishing appropriate domestic legislation and complaints procedures to remedy violations;

14. Urge States to guarantee each household a source of safe drinking water that meets the WHO's criteria for at least a basic level of service and to closely monitor any private water delivery services to ensure water pricing is based on the principles of equity and affordability for all, including socially disadvantaged groups, and to further encourage states to utilize point-of-use water treatment and other methods to raise the quality of available drinking water sources.

15. Urge all states to prohibit dumping of untreated municipal and industrial wastewater into rivers, lakes, and groundwater sources used for drinking, hygiene, or agricultural purposes and to treat municipal wastewater through low-cost, effective methods such as stabilization ponds; and to further urge states to decrease groundwater pollution from agriculture by restricting the use of toxic pesticides and reducing dependence of farmers on fertilizers and pesticides in general.

16. Encourage states to use water efficient irrigation systems and "rainwater harvesting" techniques to improve availability of water for agriculture, and urge states to reduce their dependence on large-scale irrigation projects that can have a significant negative impact on local communities and the environment.

17. Urge all states, particularly developed countries and international financial institutions, including the World Bank and the International Monetary Fund, to seek and provide new and additional resources to aid developing countries in realizing their right to development and to ensuring fulfillment of the right to water, and to further urge states to ensure that water development projects further the right to development, taking into consideration concerns of equity, equality, participation, and transparency, as well as their duties under the right to water as outlined by the CESCR.

18. Affirm the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises developed by the Sub-Commission, which clarify that business enterprises, in addition to states, have human rights obligations and to further urge states that contract with private industry to respect human rights when establishing their water pricing and distribution policies.

19. Call upon the international community to further aid Bangladesh in implementing practical, sustainable solutions to its current environmental crisis.

20. Urge states to take effective steps, individually and collectively, especially the transfer of economic and technical resources, to fulfill the right to development of children in regions afflicted or potentially afflicted by armed conflict, and to promote the realization of the full enjoyment by such children of their human rights and fundamental freedoms.

Notes

¹ Pruss, A, Kay, D, Fewtrll, L, Bartram, J (2002). Estimating the burden of disease from water, sanitation, and hygiene at a global level. *Environmental Health Perspectives*; 110:537-42.

² Gleick, PH (2003). Global freshwater resources: soft-path solutions for the 21st century. *Science*; 302(5650): 1524-8.

³ Esry, SA, Potash, IB, et al (1991). Effects of improved water supply and sanitation on ascariasis, diarrhoea, dracunculiasis, hookworm infection, schistosomiasis, and trachoma. *Bull World Health Org*; 69(5):609-21.

⁴ Quick, R, Kimura, A, et al. Diarrhea prevention through household-level water disinfection and safe storage in Zambia. *Am J Tropical Med and Hygiene*. 66(5):584-9.

⁵ World Bank (2003). *World Development Report 2004: Making Services Work for Poor People*. World Bank, New York. p.160.

⁶ Postel, S. (1992). Last Oasis: Facing Water Scarcity. W.W. Norton & Co., New York. p.150-5.

⁷ Sampat, P (2000). *Deep Trouble: The Hidden Threat of Groundwater Pollution*. Worldwatch Paper 154. Worldwatch Institute, Washington, DC.

⁸ Gleick, PH (1998). *The World's Water 1998-1999: The Biennial Report on Freshwater Resources*. Island Press, Washington DC. p.75-83.

⁹ Postel, S (1999). Pillar of Sand: Can the Irrigation Miracle Last? W.W. Norton & Co, New York. p.174-8.

¹⁰ Critchley, W (1991). Looking After Our Land: Soil and Water Conservation in Dryland Africa. Oxfam Publications, Oxford.

¹¹ Shuval, H (1990). *Wastewater Irrigation in Developing Countries: Health Effects and Technical Solutions*. Summary of World Bank Technical Paper No. 51. World Bank, New York.

¹² Smith, A, Lingas, E, Rahman, M (200). Contamination of drinking-water by arsenic in Bangladesh: a public health emergency. *Bull World Health Org*; 78(9):1093-1100.

¹³ Fauconnier, Isabelle. "The Privatization of Residential Water Supply and Sanitation Services: Social Equity Issues in California and International Contexts." *13 Berkeley Planning Journal* 37, 37 (<http://www-dcrp.ced.berkeley.edu/bpj/pdf/13-Fauconnier.pdf>).

¹⁴ Id.

¹⁵ General Comment 15, *The Right to Water*, U.N. Doc. E/C.12/2002/11 at para. 11.

¹⁶ Fauconnier, Isabelle. "The Privatization of Residential Water Supply and Sanitation Services: Social Equity Issues in California and International Contexts." *13 Berkeley Planning Journal* 37, 37 (<http://www-dcrp.ced.berkeley.edu/bpj/pdf/13-Fauconnier.pdf>).

¹⁷ General Comment 15, *The Right to Water*, U.N. Doc. E/C.12/2002/11 at para. 1-2.

¹⁸ Id. at para. 21-23.

¹⁹ Fauconnier, Isabelle. “The Privatization of Residential Water Supply and Sanitation Services: Social Equity Issues in California and International Contexts.” 13 Berkeley Planning Journal 37, 45 (<http://www-dcrp.ced.berkeley.edu/bpj/pdf/13-Fauconnier.pdf>).

²⁰ Id.

²¹ A/58/546-S/2003/1053 at para.22