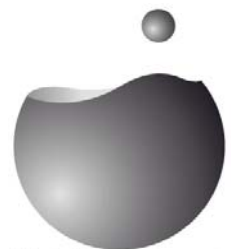


World Water Council

SYNTHESIS ON THE RIGHT TO WATER
4th World Water Forum, MEXICO

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4th World Water Forum

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1 Issues addressed

Never has the right to water received as much coverage at an international meeting as was the case at the 4th World Water Forum. The right to water issue has been clearly addressed during the World Water Forum through 4 official sessions:

- The session FT3.47 (chaired by the Mexico City's Human Rights Commission) "Human right to water" explored the theme of the human right to water using rural and urban case studies from Mexico. They stressed the necessity to raise public awareness and to recognize the human right to water not only in laws but also in actions.
- The session FT3.36 (chaired by Green Cross International) "Right to water: What does it mean and how to implement it" provided the opportunity to present and discuss the World Water Council report entitled *The Right to Water: From Concept to Implementation*. During this session, the speakers discussed their views on the meaning of the right to water, how it is perceived on global, national and local levels, and what are the different ways the concept is implemented on the ground. The report was well received by the audience and more importantly, recognized as a basic document for action.
- The objective of the session FT3.10 (chaired by Freshwater Action Network) "Voicing Peoples Interests – Civil Society Innovating Change in Water & Sanitation Policy" was to highlight the contribution of organised civil society to improved water governance and greater access to water supplies and sanitation for poor people. This session focused on the impact of NGOs working together in coalitions and networks in Africa, Asia and Latin America suggestions for how such initiatives can be replicated or scaled up to increase the impact. It also discussed the challenges for NGOs advocacy work to remain accountable and representative to the local community.
- The session FT3.35 (chaired by Blue Planet Project) "Securing The Right to Water; From the Local to the Global, Civil Society Perspectives" essentially dealt with the problem of commercialisation and privatisation of the water sector. They also called for a UN treaty to protect the right to water both for people and nature. Danielle Mitterrand, France Libertés, emphasized that all human beings should have free access to 40 litres of water daily. She also noted the consensus existing among civil society groups, governments and some corporations on the recognition of the fundamental right to water.

Even if we can regret little of time allocated to the debates during the official sessions, some interesting debates took place within the framework of the Citizen's House around two themes: "Citizen's testimony on the right to water" and "The implementation of the RTW: an issue of power, which one?". The Citizen's House was a place to hold discussions and meetings, as well as to enjoy the many cultural expressions on the subject of water around the world. It gave rise to a presentation on the New Water Culture: Pedro Arrojo stated that water must be envisioned as part of the ecosystem, as a good and a human right. He added that when water is used for economic purposes it must be paid for, but when used by the population at large, the cost can be handled in multiple ways and amounts, be it through taxes, rates or rights. Problems encountered by nations to implement the human right to water like the lack of political will, the potential conflict between land rights and human rights, and the environmental pollution have been debated and illustrated by several local actions from Morocco, Senegal, Hungary, Mexico and Argentina¹.

¹ More information in "Compte-Rendu de la journée du 20/03 à la Maison du Citoyen – La mise en œuvre du droit à l'eau, un enjeu de pouvoirs. Lesquels ?" by R. Jost (2006).

The right to water has also been addressed at the International Forum in the Defense of Water, a parallel event to the 4th Forum organised by the Mexican civil society coalition (COMDA) which took place from March 17-20, 2006 in the Sindicato de Telefonistas de la República Mexicana-the Telephone Workers' Union Hall. Among others, the new Bolivian Minister of Water, Abel Mamani stressed that the right to water exists for every living entities in the world (plants, animals), drinking water should not be privatised and should be withdrawn from all free trade agreements. The failure of the private-public partnership has also been discussed, promoting the public-public partnership. The outcome of this forum was a declaration entitled 'Declaration of the Movements in Defense of Water' that was adopted on March 19th, and was supported by local and international NGOs. The Declaration set out some basic principles in the global "struggle" for community-controlled water resource management. The emphasis, agreed on in the final declaration, is now on water management that is "public, social, community controlled and participatory." We note that most of interveners at the Alternative Forum had also the opportunity to express their point of view during the official Forum, in particular during the session chaired by Blue Planet Project and in the Citizen's house. This allowed to establish a bridge between the two Forums.

2 Quotes

- President Vicente Fox of Mexico stated that *"water is above all a human right which no one can renounce"* and that *"it is our moral and political obligation to ensure that nobody is denied his right to this vital liquid"*.
- President of the World Water Council, Loïc Fauchon stated that *"The right to water is an indispensable element of human dignity"* and he added *"Let us etch in the constitution of each state, let us engrave this right in the facade of each national and municipal place, and let us write this right in our children's notebook in every school"*.
- Danielle Mitterrand stated that *"L'eau est un bien commun du vivant dont l'humain est responsable"*² and *"l'eau n'est pas un bien marchand, seul le service d'accès à l'eau peut être payant"*³
- Ricardo Sanchez, UN Environment Programme (UNEP) director for Latin America and the Caribbean *"We need to have an ecosystemic approach, it's vital"*
- President of Bolivia, Evo Morales *"Water cannot be treated as a commercial transaction because from the moment that it is privatized, human rights are violated. Water services must be public services."*
- Bolivian Minister of Water, Abel Mamani stated that *"With a resource that is essential for life, it is unacceptable to talk about profit"* and *"Water must be treated as a human right not another tradable commodity for profit"*.
- The Mayor of Mexico City stated that *"Water is a public good and a public right"*.
- Gérard Payen, President of Aquafed stated that *"there is now the understanding that the implementation of the right to water requires that a public authority is allocated the duty and the means to make the right effective"*.

² 'Water is a common good belonging to all living beings for which human beings are responsible' (Unofficial translation).

³ 'Water is not a commodity, only services related to water access may be charged for' (Unofficial translation).

3 Main Lessons

The 4th World Water Forum has succeeded in bringing the right to water to the forefront in Mexico. There was a consensus about the existence of a human right to water on behalf of all water stakeholders. Representatives of private water operators (AquaFed, which includes local, national and major multinational enterprises dealing with water) issued a statement in which it recalled that business has officially endorsed the right to water in 2005 at UN CSD13. Mayors who are more likely to be primarily responsible for providing access to water and sanitation now stand firmly for the right to water. Representatives of various Christian churches are now involved in the debate over the right to water. Statements or reports were issued by American Catholic churches and the Holy See. They all demonstrate the unanimous views of churches in favour of the right to water. The whole civil society gives recognition to this concept, several reports and pamphlets show evidence of it. Most of Ministers are in favour of the right to water. So, there was a strong support for this concept from Parliamentarians, local authorities, private enterprises and more generally, civil society. It is a big step achieved since the 3rd World Water Forum.

However, the 4th WWF failed in providing any agreed ministerial views on this issue. Although all of the delegates said they agreed with the principle, some argued that it was not feasible to include it in the final declaration, because it would have committed many countries to modifying their legislation and would have forced international bodies to create new legal instruments. Some delegates do not want to take any position on a matter, which is entirely the responsibility of lower levels of government, as it's the case in United States. Consequently the Ministerial Declaration made no reference to the right to water although the issue was hotly debated. However, the majority of Ministers is in favour of the right to water: at least 50 States already clearly expressed themselves in favour of the right to water⁴ and over 192 States are legally committed to providing drinking water.

It's now time to act by implementing the right to water. There is now the understanding that the implementation of the Right to Water requires that a public authority is allocated the duty and the means to make the right effective.

The great initiative took by the Mexican Chamber of Deputies following the Forum must be highlighted. They campaign for the provision of 40 liters of free water per day to everyone. At least, they ask the Government to take an initial step and to mobilize the budget to provide this free water to the 33000 communities who do not have access to drinking water in Mexico (still nearly 10 million people). According to Fernando Ulises Adame de Leon, this could be achieved in 2 to 3 years. The total cost for everyone in Mexico of such a measure has been estimated at 700 million USD per year.

According to the French partnership, there are two priorities for making access to water and sanitation an effective right:

- Identify the duties of the responsible local authority,
- Practice solidarity in cost sharing so that prices are affordable by everyone.

⁴ Algeria, Argentina, Belgium, Benin, Burkina Faso, Brazil, Bolivia, Cameroon, Colombia, Costa Rica, Chile, Congo, Cuba, Ecuador, Ethiopia, Finland, France, Gabon, Gambia, Guatemala, Germany, Hungary, Indonesia, Italy, Ireland, Luxembourg, Kenya, Madagascar, Mauritania, Mexico, Morocco, Nicaragua, New Zealand, Niger, Nigeria, Norway, Panama, Peru, Philippines, Portugal, Romania, Senegal, South Africa, Spain, Switzerland, Uganda, Ukraine, Uruguay, Venezuela and Vietnam. This list, not exhaustive, is based on official declarations, national laws and jurisprudence, which implement the right to water. From H. Smets (2006) "*The right to water at the 4th World Water Forum in Mexico*".

In Mexico, three main points have been addressed and debated as regards the implementation of the right to water:

- **A rights-based approach:** The law has a critical role to play to ensure access to water for all, and a rights based approach would lead to acceleration in achieving basic and improved levels of access to safe water. It also may help to the achievement of MDGs;
- **The role of Local Authorities:** The local Authorities are a relevant authority for the organization of the public utilities of access to water and sanitation. They organise the service fulfilling their duties towards players and citizens-users, through legal rules, contracts and other commitments to which they subscribe. The local governments have to try to work in a joint way, to decentralize powers in the local authorities and to establish nearness. The local authorities must be able to establish priorities according to the local context. As stressed in the Ministerial declaration, Parliamentarians and local authorities play a key role in various countries to increase sustainable access to water and sanitation services. But it does not exonerate the State, neither the international community, nor the citizens to be also responsible for the implementation of the right to water;
- **The Community's involvement:** It's necessary to involve populations in the management of water services. During session, lots of case studies and local actions demonstrated the value of organized and informed local civil society, able to listen to communities they work with and contributing to progressive policy formulation in their country. The effective implementation of the right to water requires also the consultation and participation of users in decision-making. Education is needed to inform the participating communities about sanitation, water conservation and technology, thus developing capacities while creating a water culture.

Although the alternative Forum debated for a long time on the subject, the privatisation issue is out of fashion. As rightly stated by Jamal Saghir, World Bank Director for Energy and Water, the discussion on water services should not focus on whether the supplier should be public or private, as concerns financing of services: "What is important is to identify who can provide this service in the most efficient manner and at the lowest cost". In fact, the issue is to make sure there is a public authority that takes its political responsibility and keeps control of the tariffs and of the investments.

At last, according to NGOs, what is lacking in many countries, and among the international community, is the political will to govern water effectively and to devote the necessary resources to ensure safe water for all.

4 Recommendations

This is a list of recommendations issued from sessions organised during the 4th World Water Forum on the right to water:

- According to Danielle Mitterrand, Fondation France Libertés, the World Bank and other financial institutions have to stop conditioning their aid to the privatisation of the water services.
- It is necessary to differentiate the price of the water according to the different uses: Why to pay to the same price the water for life, the water for development and the water of the wasting.
- According to the Bolivian Minister of Water, Abel Mamani, it is necessary to measure the efficiency of the projects in number of persons having access to water and to sanitation.

- The group of NGOs are calling for governments to:
 - Adopt a resolution at the UN Human Rights Council to strengthen the right to water,
 - Establish an international mechanism to monitor implementation of the right to water, such as a UN Special Rapporteur on the right to water,
 - Bring, as a matter of priority, their national water and sanitation laws and policies in line with UN General Comment 15 on the right to water.
- The national government is primarily responsible for enabling implementation of the right to water through legislation, regulation, policies, work plans, and associated budget allocations. The actual implementation is at the local level where regional governments and their service providers develop and extend services to the yet unserved.
- The execution 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, and the allocation of adequate human and financial resources.
- Local authorities and Parliamentarians play a key role to increase sustainable access to water and sanitation.
- For the successful implementation of the right to water, local initiatives and community participation should be fostered. It is necessary to raise awareness about the existence of the human right to water, particularly amongst poor and marginalized people.
- Meeting the costs associated with implementation of the right to water requires solidarity between citizens, cities and regions to make access to water and sanitation services affordable to all people, especially the poorest. This solidarity must be institutionalised.
- Implementing the right to water in countries where almost all of the population has access to safe water has a different meaning than in countries where a large portion of the population does not yet have this access. International solidarity is particularly important in the poorest countries.
- For effective implementation, the right to water should be included in national legislation but also in policies and action plans. However, the lack of explicit mention of the right to water in national laws should not be an excuse not to implement it.
- In order for the right to water to be implemented, the leadership and initiative of key actors, including government departments, NGOs, and international agencies are required as "boosters" to help revise laws and policies, provide education and assistance to communities, and ensure their effective participation in decision-making. The fact that the right to water and sanitation is included in international law - and increasingly in national law - is only a preliminary step and will not automatically lead to its application. However, these rights provide the tools for authorities and key actors to advocate and implement the right to water.
- Strong and continued Government-NGO-community partnership and capacity building is prerequisite to achieve total sanitation and access to safe water.
- Money alone cannot solve problems. Communities can become effective advocates of policy change if they are properly mobilised. Local actors must be pushed forward to represent themselves. NGOs should not always assume needs of the community and they must be held to account by continuous dialogue with local action groups, water user groups.

- Governments appreciate the value of working with NGOs and NGOs are now being recognised as partners of development. This is the key to success.
- The collaborative force of NGOs working in parallel with government has resulted in improvements in water supply access and sanitation. They provide direct implementation and can provide direct areas of funding for investment in the sector, and have an important advantage over government and private sector in hard to reach communities, gender mainstreaming, HIV and AIDS.
- Good practice needs to be scaled up and success should be replicated.
- To ensure continued implementation of the right to water, sustainability of water sources— both in quantity and quality—is essential. Local as well as national governments should include protection of water resources and aquatic ecosystems as a main element in any program on the right to water.
- The right to water can be implemented in various ways, which can all be effective if they are appropriate to the national and local context, and actively involve all relevant stakeholders.
- The implementation approach for the right to water must be sustainable, ensuring that this right is guaranteed for present and future generations.

5 Local Actions presented

This is a list of relevant local actions presented during the official sessions dealing with the right to water:

- *“Agua Y Saneamiento En Asentamientos Humanos En América Latina Y El Caribe”* presented by UN-Habitat.
- *“Agua y Saneamiento en Zonas Metropolitanas El caso de Lima, Perú”* presented by Guillermo León Suematsu, Engineer and President of SEDAPAL.
- *“Voces de Mujeres Sostenibilidad en Agua y Saneamiento”* presented by Gender and Water Alliance (GWA). This highlight the key role played by women to solve problems linked to drinking water and sanitation. The gender approach is essential in all processes of community’s empowerment.
- *“El desafío de la urbanización y la privatización”* presented by Maria Angelica Alegria and Denisse Charpentier C, Minister of Public Works, Chile.
- *“Incidencia de las Organizaciones Sociales en los procesos de elaboración de Leyes de Aguas en Centroamérica”* presented by Jeanette de Noack, FANCA & CALAS, Guatemala. There is a lack of legal frameworks for water conservation in Central America. FANCA members are working to introduce water laws in Costa Rica, Nicaragua, Guatemala and Honduras to ensure that water supply is properly managed. CALAS use existing processes and frameworks to conduct public consultations with members of society who are usually excluded as well as entrepreneurs, parliamentarians, local authorities and local water boards. CALAS organises workshops with local communities to make sure that their principles are included in water legislation and legal texts. Using this model, the development of water laws has made significant progress in Guatemala, and similar approaches have been applied by civil society organisations in Costa Rica, Nicaragua & Honduras.

- “*Incorporation of NGO contribution into water and sanitation sector performance measurement in Uganda*” presented by Harriet Nabunnya, Uganda NGO Water & Sanitation Network. The Ugandan National constitution recognises the right to water and government policy recognises the importance of coordination of all stakeholders. Until recently, NGO contribution in water and sanitation was not been reflected in central government management information systems so there was a lack of comprehensive understanding of the physical and financial inputs by NGOs, and therefore was not reported upon in the Government Sector Performance Review. UWASNET have successfully changed government policy so that now the NGO contribution to the sector is monitored and reported on by Government in its sector performance measurement. Government recognition of NGO contribution is contributing to change. There is political will to work with NGOs because their contribution is recognised. This is much more effective than a conditional grant that is given to local govt from national govt.
- “*Social tools to guarantee an equitable access to water in Belgium*” presented by Philippe BOURY, Assistant general manager, Société wallonne des eaux, Belgium. Each of 3 regions of Belgium (Flemish, Brussels, Wallonia) developed a social policy regarding access to water and sanitation.
- “*Historical Evolution and Current Status of the Availability, Legislation and Threats of /to Water Resources, Drinking Water and Sanitation Facilities in Uruguay*”, presented by Adriana C. Blanco. The evolution in the field of access to water and sanitation developed thanks to an affirmative commitment of The State.
- A case study about Ukraine has been presented by Anna Tsvetkova, NGO MAMA-86. In Ukraine, there is a participative approach of the population in the decision-making processes. The population participated in the elaboration of the water legislation. There is a governmental program entitled " Drinking water for Ukraine ".

6 List of official statements / Declarations

- Children’s Declaration, 2nd Children’s World Water Forum
“We ask all adult decision makers to fulfil the human right to sustainable, safe drinking water supplies and basic sanitation, through the provision of child-friendly facilities in all schools and communities, taking into account the needs of girls, very young children and children with disabilities.”
- Complementary Declaration to the Ministerial Declaration from 4 countries of Latin America (Cuba, Venezuela, Bolivia, Uruguay)
“Access to water with quality, quantity and equity, constitutes a fundamental human right. The States, with the participation of the communities, shall make efforts at all levels to guarantee this right to their citizens, within their respective countries. Thus, we agree to continue making all efforts within the Commission on Sustainable Development of the United nations and other international for a according to their mandates, to recognize and make this right effective.”
- Contribution of the Holy See⁵ to the 4th World Water Forum:
“Water is much more than just a basic human need. It is an essential, irreplaceable element to ensuring the continuance of life. Water is intrinsically linked to fundamental human rights such as the right to life, to food and to health. Access to water is a basic human right.”
“Defining access to safe water as a human right is an important step in making this access a reality in the lives of many people living in poverty.”

⁵ From the Report “Water, an essential element for life” an update, Holy See, Vatican city.

- EU statement annexed to the Ministerial Declaration
"The EU considers that water is a primary human need and that water supply and sanitation are basic social services as mentioned in the resolution of the EU Development Council adopted on 30 May 2002, 8958/02. The EU emphasizes that public authorities must take adequate measures to make this effective and affordable".
- Interfaith⁶ statement "Water: Essential for Justice and Peace"
*"Access to enough safe, clean and affordable water for personal and domestic use is a basic human right."
 " Each person has the right to water for a basic livelihood. Marginalized and vulnerable social sectors should be given priority in terms of access to water and appropriate water technologies for subsistence."*
- Joint Declaration of the Movements in Defense of Water⁷
*"Water in all of its form is a common good and access to water is a fundamental and inalienable human right."
 " We demand that every human being have access and the right to water of good quality and in quantity sufficient for hygiene and good nutrition and that, in places where there is potable water delivery service, the minimum necessary amount should be allocated free of charge regardless of any differences, whether of culture, society, religion, geography, economy or gender. We reject any double standard. No corporation, government or international institution can stop water service in domestic uses for lack of payment."*
- Local government declaration on Water, proposed by the UCLG Committee on the Local Management of Water and Sanitation
*"All human beings have the right to water in the quantity and the quality required to meet their essential needs, as well as to sanitation, a key factor in human health and the preservation of ecosystems"
 "Each individual's right to water, and their usage of it, should be exercised with respect for the needs of present and future generations"*
- Ministerial Declaration, without mentioning the right to water, includes a reference to the pro-poor approach which is needed to improve access to water
"Governments have the primary role in promoting improved access to safe drinking water, basic sanitation, [...] through improved governance at all levels and appropriate enabling environments and regulatory frameworks, adopting a pro-poor approach".
- Parliamentary Assembly's Recommendation 1731 (2006), Council of Europe
"Recognizing access to water as a fundamental 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 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".
- World Encounter of Water Legislators' Mexico declaration
"We seek to make sure that actions carried out locally by everyone of us, are joined for the shaping of an international commitment that will recognize access to water as an essential right of all human beings, irrespective of their place of birth or the country in which they live."
- World-Wide meeting of parliamentarians on water issues
"We expect that actions undertaken by each one of us locally could be added to build up a world-wide commitment, by which the access to water is recognized to every human being as an essential right, without concerning the place where he or she has been born or lives."
- Youth's statement, 2006 Youth World Water Forum
*" Water is a universal and unalienable human right that must be incorporated into the constitution of each country. This water should be clean, readily available, from a secure source and sufficient for the population's needs; sanitation must be guaranteed."
 " Access to water and sanitation must be guaranteed for the poor."*

⁶ Five American national Christian denominations and organizations, joined by the Hopi Villages of Arizona, issued a statement for consideration by Ministers and stakeholders participating in the 4th World Water Forum.

⁷ Signed by around 300 NGOs from 40 countries.

7 List of documents edited for the 4th World Water Forum and mentioning the right to water

- French Water Academy report entitled “*Right to water, a right for all citizens*” prepared by AFD, the Water academy and the European Council of Environmental Law for the 4th World Water Forum.
- Pamphlet entitled “*Access to water and sanitation for all*” prepared by the French Partnership. It describes how to make the right to water a more effective right.

These two policy documents reflect the integrated views of all French stakeholders on the right to water (official circles, water multinationals, professional societies and NGOs).

- Report “*The right to water: From concept to implementation*”⁸ prepared by the World Water Council in partnership with French Water Academy, Green Cross International, the International Secretariat for Water and ALMAE.
- Report “Water, an essential element for life: an update” prepared by the Holy See (Vatican city) on the occasion of the 4th World Water Forum.
- The 2nd United Nations World Water Development Report: “Water, a shared responsibility” devotes several chapters to the right to water.

⁸ Author : Céline DUBREUIL.