



India WASH Forum

WASH News and Policy Update

Bi-monthly e-Newsletter of the India WASH Forum

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India WASH Forum News

WASH News and Policy Update is a bi-monthly e newsletter of the India WASH Forum. It is an open platform for engagement on contemporary issues, for an independent credible voice in the water, sanitation and hygiene sector. We are conscious of the need to engage with and understand other larger debates in the social and economic development scenario, of which drinking water and sanitation is a part. Hence we include in our news

analysis and policy updates, events and developments from other related development fields, besides the WASH sector.

We welcome articles and reports from readers, to make this a learning and advocacy platform.

India WASH Forum reports and documents are hosted on the India page of WSSCC website.

Global Sanitation Fund is now all set for taking up sub grantees for programme implementation in Jharkhand and Assam. The programme is being implemented by the Natural Resources Management Consultants(NRMC) and India WASH Forum is hosting the Programme Coordination Mechanism for the Fund.

The GSF was launched in Ranchi/Jharkhand on the 26th April and on the 19th June in Guwahati/Assam. The launch of the GSF received full support with the participation of the Chief Ministers and the Senior Public Health Engineering Departments of both the states, many NGOs and institutions attending the launch and offering full support to partner in this unique initiative.

This issue of WASH News and Policy Update is devoted to highlighting the progress and contradictions emerging in the Right to Water and Sanitation.

We bring together a collection of recent historic UN Resolution on Right to Water and Sanitation and the subsequent **clarifications from the UN and its Special Representative making it clear that this is a legally binding right.**

"The right to water and sanitation is a human right, equal to all other human rights, which implies that it is justiciable and enforceable," said Ms. de Albuquerque. "Hence from today onwards we have an even greater responsibility to concentrate all our efforts in the implementation and full realization of this essential right."

After passing of this historic UN Resolution, influential countries who absented themselves from voting in favour of this resolution, had gone on record saying that the UN Resolution was not legally binding and that the work being done by the UN Special Representative(Ms. Catrina Albuquerque) had been disrupted by this UN Resolution..

We also bring the subsequent UN Resolution passed in May 2011 at the Permanent Forum on Indigenous issues where Pablo Solon, the Bolivian representative to the UN who had earlier tabled with Right to Water and Sanitation UN Resolution, made an inspiring interjection on indigenous peoples rights to water and sanitation.

"PABLO SOLÓN (Bolivia) recalled the big battles over water in Cochabamba, Bolivia, in 2000, noting that that fight aimed to change a proposed law to privatize a local water source. Following those protests, the law was modified and the fight allowed the Bolivian people to seek a deeper change through the recovery of its water sources, as well as the recovery of its own



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Government, which was no longer imposed from abroad.”

We reprint the **excellent analysis by Radha D Souza, on the meaning and content of Rights including a Right to water.**

“In part, misunderstandings about “rights” persist within social justice movements because they have forgotten the history of “rights” and the critique of “rights” by revolutionary thinkers of the late nineteenth and early twentieth centuries, and the political programmes of the successful movements for socialism and national liberation struggles to alter the nature of “rights”. As a result, social movements, instead of learning from and developing those revolutionary experiences, have discarded the history of struggles against “rights” and feel frustrated that “rights” do not work, but have nothing to offer beyond “rights”. If we wish to move forward, it is important therefore to grasp the concept of “rights”, its history and the critique of “rights” by radical movements of working people in the past.”

“Capitalism has transformed the structure of communities. Communities too are formed on market principles based on common “interests” in the marketplace, and not allegiance to “people in places”. For example, a person joins a trade union because of common interest with others in the labour market, and joins a consumer organisation because of common interest in commodity prices, and joins a “water rights” movement because of interest in water, and so on. Interest-based communities alter the character of “rights” in fundamental ways. As each interest is governed by a different statute law enforced by a different set of institutions, it is no longer possible to find institutional and legal recognition of “people-in-places”, whose well-being requires the convergence of several interests”.

“What one statute gives another can take away. For example, a statute may provide for a minimum wage, but if prices go up as a result and cancel out the wage gains, that is not an issue that can be addressed within the scope of the minimum-wage legislation. A statute may grant the “right” to education, but treasury and fiscal management rules may simultaneously require cuts in spending. “Choice” then is limited to whether we allow budget cuts to affect the “right” to education or some other “right”, like health for example”.

While there is much that has been achieved on the Rights side in terms of UN resolutions, there is little matching progress on the ground to ensure right to water and sanitation has any coherent commitment at the national level in many countries.

By taking the **example of the recent steps taken by the Delhi Water Utility(called the Delhi Jal Board or the DJB in short)**, we bring out recent example of right to water sanitation, as a basic human right, is observed more in breach than in any progressive action on the ground.

DJB took pride in providing progressive equity based water charges for the poor. Drinking Water charges of DJB were progressive(in terms of following the South Africa model of providing 6000lts/month per family free). Now a slew of measures have been taken that include the following;

- **Lowest 6000lts/month free water slab has been removed**
- **New water rates are six times the rates prior to 2010. Sewerage charged at 60% of the water bill(against 40% in the earlier billing cycle).**
- **Connection charges have been hiked.** This will have maximum impact on unauthorized colonies and any slums that did not have DJB water connections.
- **Sewerage Charges added where no DJB water connection exists.** Sewerage charges, if the dwelling is connected to the sewers, will have to be paid.
- **Removal of public water stand posts.** In a semi arid climate of Delhi, removal of public water taps and pias – affects those who travel by road and daily wage workers and other manual workers who cannot afford to buy packaged water.

Efforts to make scrutiny of renewed privatization of Delhi Jal Board are being blocked by Planning Commission on the ground that the **PPP initiatives of the DJB should not come under RTI ruling** that give access to the citizens to know what is being planned by the Delhi Government to privatise its water and sewerage systems.

The Planning Commission has shot down a proposal of the Central Information Commission (CIC) to bring private entities executing projects under the Public-Private Partnership (PPP) mode under the Right to Information (RTI) Act, arguing that it is applicable on public authority and not on private companies.

“RTI is not Right to Information on private companies. It pertains to information on public authority,” deputy chairman of Planning Commission, Montek Singh Ahluwalia, said while emerging from a seminar here today.

The Central Information Commission, fortunately has overruled the Planning Commission and has directed the DJB to put out on its website the information pertaining to all memorandums of understanding (MOUs), contracts or other documents entered into between it and any private company or individual to engage them in these operations.

This is not the first time that privatization of Delhi water and sanitation services has been attempted in stealth. We bring together the **excellent analysis by Phillipe Cullet of the earlier 2002** attempts of the DJB where little public consultation was done on the rationale and implications of this privatization. The whole rationale for privatizing DJB wrests on the promise that of 24x7 water supply to Delhi.

In contradictory statements, the DJB suggests Public Private Partnership(PPP) as a means for achieving 24x7 water availability in Delhi. It does not tell us where the additional water will come from to make this a reality.



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"We are very much concerned with non-equitable water distribution in the Capital. Due to rampant and unplanned urbanisation, vast areas of the city face water shortage. As the DJB does not have sufficient water inventory....."

The additional water saving is expected to come from water saved by plugging leaking pipes. However, the estimates for leakages vary and it is nowhere assured that water saved will be sufficient to provide equitable water to all localities in Delhi. At the current moment, water availability is very inequitable in Delhi with areas falling in New Delhi and NDMC and Cantonment Board receiving high water supply and not other areas of Delhi.

It is only when water supply is cut off from the VIP areas of New Delhi (as the news report we have on Leader of the Opposition Party in Parliament's), that admission of water shortages is made by the DJB.

The argument for 24x7 water supply in Delhi, under the PPP model was also exposed for the following pitfalls in the modalities that were being considered in 2005.

"According to the agreement, DJB has to supply sufficient quantities of water at the input of a zone to the company! Where would DJB get water from? It is feared that water will be diverted from other parts of Delhi to South zones, which are being handed over to these companies in December this year. Even if DJB supplied the promised water, the company is still not obliged to provide 24-hour water up to individual houses. Each zone would be divided into several District Metering Areas (DMA). Like, Defense Colony would be one DMA. Water company has to provide 24-hour water only up to the input of DMA. And then, it will be assumed that every house in that DMA got 24 hour water. So, if you are not receiving water for the last three months in your house, but there was 24-hour water in the input pipe of Defense colony, it would be assumed that the water company provided 24/7 water to all the houses in entire colon".

It is possible that under the PPP model that may be tried out in a few colonies of Delhi. Privatization of water could lead to some localities getting 24x7 water supply at a high tariff, at the expense of other colonies in Delhi.

There is very little commitment any National or State level urban water supply Policy Framework or Programming guidelines emerging from the Planning Commission, National Water Policy guidelines, any Municipal or Utility Commitments – to ensure a Right to Water and Sanitation, as signed up in the UN Resolution by Govt of India.

Global Forum on Sanitation and Hygiene: Mumbai, 9-14th October 2011;

Jon Lane, Executive Director WSSCC

The Water Supply and Sanitation Collaborative Council (WSSCC) is pleased to welcome you to the WSSCC Global Forum on Sanitation and Hygiene in **Mumbai, India, from 9 to 14 October 2011**. Join us, along with colleagues from across the world, to make this a unique professional experience.

This is an exciting time to be working with sanitation and hygiene issues. The Global Forum on Sanitation and Hygiene will be a prime opportunity for WASH professionals from around the world to share ideas on leadership, skills, knowledge and actions that can make a substantial difference in the lives of the 2.6 billion people in the world without safe sanitation and hygiene.

The Global Forum offers a carefully selected mix of thematic sessions, technical training opportunities and urban and rural field visits, with a focus on leadership, accelerating behaviour change, equity and inclusion, and sharing across the regional sanitation conferences. The Global Forum will explore these themes as they apply to WASH, but will do so by drawing from successes in other sectors.

The Global Forum is a unique opportunity to learn from practitioners who are at centre of policy and practice. This will not be a talk shop of speeches and declarations, but rather an interactive and informative setting to discuss the key questions and challenges that face all of us in all countries. WSSCC has a history of arranging such meetings, and the plans for the Global Forum grew out of a demand from WSSCC members for an opportunity to take stock and to plan for the future in a collaborative manner.

We look forward to seeing you in Mumbai for a stimulating and enjoyable Global Forum on Sanitation and Hygiene. For regular updates, or to register, please check the dedicated conference website regularly: www.wsscc-global-forum.org.

Jal Board to make info on PPP projects public by September

Gaurav Vivek Bhatnagar July 28, 2011; The Hindu

<http://www.thehindu.com/todays-paper/tp-national/tp-newdelhi/article2300952.ece>

Delhiites will soon be able to access much of the information pertaining to private parties engaged by the Jal Board for carrying out meter changing, meter reading and bill collection in their areas with consummate ease.

The Central Information Commission has directed the DJB to put out on its website the information pertaining to all memorandums of understanding (MOUs), contracts or other documents entered



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into between it and any private company or individual to engage them in these operations.

In an order issued to the Delhi Jal Board Secretary, Information Commissioner Shailesh Gandhi recently demanded adherence to Section 4 of the RTI Act under which public authorities are under an obligation to make certain *suo motu* disclosures which ensure accountability in institutions and reduce the load of RTI applications being filed with them. The Commission said it had received representations from two persons, Ms. Aheli Chowdhury and Ms. Preeti Sampat, requesting that some additional information also be displayed by the DJB under its obligations mandated by Section 4 of the RTI Act, 2005.

Noting that "this matter warrants larger public interest and information connected to it, as mandated by law, should be available proactively on the website of the department", the Commission directed the DJB to provide all documents -- reports, circulars, notices, and proposals indicating the reasons for the decision to undertake each public private partnership.

It has also demanded that all contracts, agreements, proposals, MoUs, expression of interest related to the hiring of any consultants for the PPPs be put in the public domain. Similarly, it has called for making public all documents at any stage, submitted by a consultant for the PPPs.

It is also required to put on its website all documents indicating the budgets, expenses (estimated and undertaken), sources of finance including loans, grants and other monetary transactions related to the PPPs; details of public consultations held for these PPPs; the Water Board Amendment Bill; and all documents, reports, proposals, notices, contracts related to the preparation of the Water Board Amendment Bill and to the Master Plan for Sewerage System of Delhi for the year 2031.

The Commission has directed that the information be made available on the DJB website by September 1 and the compliance report be filed with it by September 10.

Plan Panel says no to RTI in PPP projects

March 04, 2011, New Delhi

<http://www.indianexpress.com/news/plan-panel-says-no-to-rti-in-ppp-projects/757629/>

The Planning Commission has shot down a proposal of the Central Information Commission (CIC) to bring private entities executing projects under the Public-Private Partnership (PPP) mode under the Right to Information (RTI) Act, arguing that it is applicable on public authority and not on private companies.

"RTI is not Right to Information on private companies. It pertains to information on public authority," deputy chairman of Planning Commission, Montek Singh Ahluwalia, said while emerging from a seminar here today.

He questioned how a concessionaire, a private firm performs its job is not a relevant issue from the RTI point of view. He was responding to queries on the chief information commissioner

Satyananda Mishra's proposal on bringing private firms under RTI ambit.

Currently the Act doesn't refer to PPP projects. A public authority, as defined under Section 2(h) of the RTI Act includes a non-governmental body only if it is substantially financed by the Centre.

DJB to halve water supply to hotels, malls

June 22, 2011

Siddheshwar Shukla | New Delhi

Major water guzzling commercial establishments in the city will soon get a 'lesson or two' on water conservation and recycling. The Delhi Jal Board (DJB) has decided to cut per head water supply from 350-450 litres per day to 200 litres per day to the hotels, malls and other commercial establishments. Thus, the shortage of 150 litres per person per day will have to be recovered by these commercial establishments with the help of their own recycling and waste water management processes. **"We are very much concerned with non-equitable water distribution in the Capital. Due to rampant and unplanned urbanisation, vast areas of the city face water shortage. As the DJB does not have sufficient water inventory,** the present norm of 350-450 litres per head per day for hospitals and hotels will soon go down to 200 litres," said Ramesh Negi, Chief Executive Officer (CEO) of the DJB.

"Hotels and hospitals share the concerns and will recycle the remaining as per their needs," added Negi. The DJB is also planning to give incentives to buildings in the city which adopt measures to save the precious resource. The proposal on incentives for those buildings undertaking regular water conservation audit is likely to figure in the high-level meeting of the board, when it will meet to revise water tariff next time. The DJB spends about Rs 1,500 crore to make potable water available to the Capital.

Calling for private investments in water sector in Delhi, Negi said, "The investment opportunities in the sector are going up manifolds. A public private partnership (PPP) model is the need of hour in which the Government will provide the land and the private counterpart does the water recycling. The DJB will soon contract leakage management to private players, to minimise water wastage." The top brass of the DJB also called for private players to explore new areas of PPP in water sector to help the Government to meet out basic requirement of citizens. Negi was speaking at a two-day summit: Catalysing Investments in Water Sector in the national Capital.

Taps go dry at Advani's house

On Thursday, scarcity of water in the Capital scaled new heights. It left the houses of senior politicians in NDMC area, including that of Leader of Opposition LK Advani's official residence on Prithviraj Road, without water supply.

The security guards at Advani's residence, sources said, could not bath. Finally, the BJP leader's office had to call Delhi Mayor Kanwar Sain for arrangement of water, who took up the matter



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with the NDMC and Central Public Works Department (CPWD) chiefs.

PPP for management of water in some areas

TNN March 30, 2011

http://articles.timesofindia.indiatimes.com/2011-03-30/delhi/29361291_1_djb-ceo-ramesh-negi-water-management-delhi-jal-board

NEW DELHI: The water budget for 2011-12 did not hold any surprises or the promise of new projects. Delhi Jal Board's primary focus will be on completion of old works and tendering of those projects that have already been announced. After a tariff hike in 2010, this year is the first time that DJB will not be seeking any subsidy from the government for its non-plan expenses. Last year, the board had been granted a subsidy of Rs 50 crore.

A total budget of Rs 1,716.28 crore has been set out for the water and sewerage sectors. While Rs 925.05 crore has been assigned for water management and distribution, Rs 791.23 crore has been set aside for sewerage. Japan International Cooperation Agency which is providing financial assistance to several DJB projects has assured the government that it will not pull out of any of them due to the earthquake and tsunami crisis

DELHI WATER PRIVATIZATION – BACKGROUND AND RECENT DEVELOPMENTS: Phillipe Cullet

[http://www.indiawaterportal.org/sites/indiawaterportal.org/files/Delhi_water_privatisation-Philippe Cullet](http://www.indiawaterportal.org/sites/indiawaterportal.org/files/Delhi_water_privatisation-Philippe_Cullet)

I . EARLIER EFFORTS AT INTRODUCING PRIVATISATION IN DELHI (2002-2005)

Following the adoption of the Delhi Jal Board Act in 1998, ideas for further reforms were progressively mooted. In 2002, the DJB commissioned the Delhi Water Supply and Sewerage Project Preparation Study with the assistance of the World Bank. The study was carried out by Price Waterhouse Coopers (PWC). PWC recommended further studies, which were carried out by other consultants. Reports were submitted and the project that would have led to water service privatisation in Delhi was going to be approved in 2005.

However, from the second half of 2005 a strong campaign managed to force the government to put the privatisation on hold as well as the World Bank project that was going to provide the funding for this. The World Bank project was eventually entirely dropped.

II . ELEMENTS OF THE PRIVATISATION SCHEME OF 2005 AS SET OU IN A PAMPHLET BY THE RIGHT TO WATER CAMPAIGN (2005)

Delhi Jal Board increased water rates 3 to 5 times in April 2005. Do you know why?

Delhi Government is handing over the management of 2 zones of DJB in South Delhi in December this year to Multi National Water Companies. Rest of the 21 zones will be handed over in the next two years. A company will send 4 employees at a total salary of one lakh dollars (about Rs 44 lakhs) per month to each zone. Today, a zone is run by an Executive Engineer, who gets a salary of about Rs 25,000 per month. **The water rates have been raised to partly meet the salaries of the employees of these companies.**

Will DJB be wound up after this?

Only the management of distribution zones is being handed over to water companies through "management contracts". Delhi Jal Board will continue to function.

Why can't DJB officers run distribution zones?

Because Delhi Government and DJB officers say that they cannot run DJB anymore.

Who will pay for running DJB zones?

DJB will provide money to the companies to run each zone. The companies will not invest any money.

How much will DJB pay to the companies?

DJB will have to pay whatever companies demand.

But that is ridiculous. Can the companies demand any amount? Is there any upper limit?

There is no upper limit. The companies can demand any amount and DJB will be contractually obliged to provide that.

How much could the companies demand?

It depends entirely on the greed of that company, their ability to influence bureaucrats and politicians and intensity of public outcry. In Puerto Rico, where similar management contracts were signed, the companies demanded so much money that PRASA's (counterpart of DJB in Puerto Rico) operational deficit increased from \$241.1 million in 1999 to \$685 million in 2001. The Government Development Bank of Puerto Rico had to contribute emergency funding to prevent disruption of water services. Finally, Vivendi was thrown out of Puerto Rico in 2001.

Where will all this money come from?

The people will pay for it. The water tariffs will have to be raised very high.

How much would the tariffs rise?

Once all the zones of DJB are handed over to the companies (which will happen in two years), **water tariffs will be increased at least six times immediately** (over and above the recent hike). So, the monthly bill of a family paying Rs 192 will increase to about Rs 1200. In a resettlement colony, it will increase from Rs 52 to Rs 300. Future hikes would depend on the greed of these companies. In Manila, water prices went up by 700% within three years of privatization, when the companies had promised no increase in tariffs for the first ten years. In Bolivia, water prices increased by 200% within a few weeks of privatization. Water rates nearly tripled in Nelspurit in South Africa. Poor could not afford these rates. Their connections were cut off. In some countries, people had to take their children out of



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schools or had to skip meals to buy water. This led to massive social unrests and riots in several countries.

But won't increase in tariffs improve services? Government says there would be 24-hour water supply after this.

This is the biggest lie being propagated. There will be no 24-hour water supply. According to the agreement, **DJB has to supply sufficient quantities of water at the input of a zone to the company!** Where would DJB get water from? **It is feared that water will be diverted from other parts of Delhi to South zones**, which are being handed over to these companies in December this year. **Even if DJB supplied the promised water, the company is still not obliged to provide 24-hour water up to individual houses.** Each zone would be divided into several District Metering Areas (DMA). Like, Defence Colony would be one DMA. Water company has to provide 24-hour water only up to the input of DMA. And then, it will be assumed that every house in that DMA got 24 hour water. So, if you are not receiving water for the last three months in your house, but there was 24-hour water in the input pipe of Defence colony, it would be assumed that the water company provided 24/7 water to all the houses in entire colony.

Is it correct that the companies could divert water from residential users to commercial users?

Yes, because commercial users pay more. In Puerto Rico, water companies cut off water supply to residential areas and diverted it to swimming pools, five star hotels, amusement parks etc.

But Government claims that 24-hour water supply will be achieved by reducing leakages?

This is totally false. According to DJB records, water leakages in South Zones are around 24%. But now while privatizing, DJB has assumed it to be 55% and water companies are being asked to reduce leakages to 34% in three years. Obviously the targets are totally bogus and will not improve water availability.

Would grievance redressal improve?

It would deteriorate. The companies will redress any grievance between 5 to 20 days. **So, if you are not getting water, the company can take 20 days to get you water!** Presently, the time limit for redressing any complaint is between 24 hours to 3 days.

If I am aggrieved with the company, where will I go?

Nowhere. Short of cancelling contract, the Government will have absolutely no control over the functioning of the companies. Obviously, the Government cannot cancel the contract for individual grievances. So, if you are dissatisfied with the company, there will be no platform for redressal.

How would poor people get water?

Those who have water connections may not be able to afford such expensive water. Their connections will be cut off. Those who are not connected presently rely on water tankers, tubewells and public taps. All these free and illegal sources of water will be cut off. Five poor families will be provided one group connection, which means that these families will always be fighting amongst themselves. Even this is an empty promise because presently poor areas do not have water pipelines and there are no plans to

lay new water pipelines in these areas. Then how will group connections be provided? If present sources of water for the poor will be cut off without creating legal and viable alternatives, it is a sure recipe for water riots in Delhi.

If this project is so bad, why is the Delhi Government implementing it?

This entire project has been designed by the World Bank and its consultants. World Bank is forcing Delhi Government to implement all these things.

What is World Bank's role?

World Bank is providing a loan of \$ 150 million over a period of six years for this project. This comes to roughly Rs 120 crores per year. The amount of this loan is so small that we do not really need it. The Bank has imposed very stiff conditions in giving this loan and has acquired absolute control over the entire project. The Bank has dictated what changes should take place in DJB and how they should take place. The Governments, Delhi Legislature, elected representatives and the people have absolutely no say. World Bank is even manipulating DJB to give contracts to Bank's favourite companies by subverting bidding processes. DJB officials are blindly following whatever World Bank says. This entire project has been designed by the World Bank along with its consultants to promote the interests of Multi-National Companies at the expense of the citizens of Delhi. The whole project ensures that the money would flow from the pockets of the people to the bank accounts of these companies without any benefits flowing to the people.

What is the rate of interest at which World Bank is giving this loan?

At market rate of interest.

Then why is Delhi Government taking such an insignificant amount of loan at such high rate of interest and at such stiff conditions?

This is the biggest mystery. What are the compulsions of Delhi Government to take this loan and follow the orders of World Bank? And that too by sacrificing the interests of the people of Delhi. Delhi Government refuses to reply to this question. Millions of people in Delhi would be affected by this project but World Bank, Delhi Government and the DJB have joined hands and are together pushing its implementation by keeping the people in dark.

When will the project start?

In the beginning, two zones of South Delhi will be handed over to the water companies. 4 companies have already been short-listed for that. Out of these, two companies will finally get the contract. They are likely to start operations by 1st December 2005. The rest of Delhi would be handed over to the water companies in the next two years. The loan application of Delhi Government is pending with the World Bank. It is likely to be approved by the Bank in its Board meeting in last week of November.

Which companies are coming to Delhi?

Veolia, Manila Water (Bechtel), Degremont (Suez) & SAUR have been shortlisted for the two zones in South Delhi. These companies ruined the water sector of many developing countries



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and were thrown out of these countries. Suez was made to leave El Nato & La Paz (Bolivia), Brazil, Puerto Rico, Manila, Potsdam (Germany), Argentina and Nkonkobi (South Africa). Campaign against Suez is going on in Jakarta in Indonesia. SAUR is facing enquiry for bribing the officials in Lesotho in South Africa. SAUR also had to leave Mozambique and Zimbabwe. Campaign against SAUR is going on in other South African countries. Bechtel had to leave Cochabamba in Bolivia, Estonia and Sofia. Veolia had to leave Argentina and Puerto Rico. It faces legal and strong civil society opposition in Indianapolis in USA. After ruining the water sector of so many countries, these companies are now coming to Delhi!

What are the demands of Right to Water campaign?

Implementation of this project would completely ruin the water and sewer sector in Delhi. We demand that the Delhi Government should withdraw its loan application to the World Bank and scrap this project.

But isn't DJB in a mess? How does one improve it?

Yes, we agree that DJB is in complete mess. Urgent steps need to be taken to improve its functioning. However, the programme for reforms should be worked out by the Government, independent of any external pressures, by holding public consultations. There is ample technical and managerial expertise available in our country to develop DJB into an efficient water utility. We will be very happy to be a part of any such move.

III. DEVELOPMENTS IN 2010-2011

In the past few months, the issue of privatization has again emerged in the organization of water supply system. Most of the issues have been reported in media and some significant initiatives have been mooted by the Delhi Government in this regard. Based on the recent news clippings, proposed moves towards privatisation are:

a) What activities are being conducted under the reforms initiated by Delhi

Government with respect to water distribution regime in New Delhi?

So far following activities are being initiated:

A. In the first meeting [101st meeting of DJB] of the year 2011 of the Delhi Jal Board, following decisions were taken:

- 1) A pilot project for privatising tankers in Delhi received approval, with a seven-year contract being awarded to SPML for managing water tankers in South and Southwest Delhi.
- 2) A proposal for supply and, installation and maintenance of 2.5 lakh water meters in Delhi. A five-year contract was awarded to Larsen & Tourbo.

B. On 9th March, the Delhi Government confirmed the news of considering joint ventures with various companies for treatment and distribution of water under the command of its six major treatment plants. This will be a key reform for Delhi Jal Board. The Delhi government intends to enter into Joint Venture arrangement with private companies or form smaller units under the government. This change will lead to the following arrangement:

- 1) Delhi's water supply system will work under a three-tier system led by the DJB.
- 2) A separate regulator may be established for pricing of water.

The DJB will work as a regulatory body and with its functionalities it will work as a corporate system.

C. On 18th March, the Delhi government was stated to bring private people into the distribution of water and a presentation would be made before the MLAs for their approval and suggestions. It was further submitted before the Delhi Assembly that the Delhi Government intended to work expeditiously on water reforms in similar manner as power sector reforms.

D. The Delhi Government has admitted that to bridge the gap between demand and supply of water they are mulling on the idea of privatization of water distribution system on the lines of the power sector if the consensus is reached on the issue. Further, they are in a process of studying the possibility of reforms of water distribution system on the similar lines as power sector.

E. Last year, the Delhi Government had initiated reforms in water supply system. They had involved Tata Consultancy Services in water billing and installation of meters. It is almost imminent that the Government may handover maintenance of the water distribution network to private entities from the DJB.

F. DJB has announced its plans to allocate treatment and distribution of water to four or five separate units namely Wazirabad, Chandrawal, Sonia Vihar, Nangloi, Haiderpur and Bhagirathi. The management of these water treatment units may be given to Discoms under a Public Private Partnership arrangement with DJB since they have acquired legal approval to enter into water distribution in Delhi. NDPL and BSES are already in discussion with DJB on matters of metering, billing, collection and water distribution.

G. A pilot project has been initiated by DJB with focus on reforms in the administrative and distribution mechanism and 24X7 supply in Malaviya Nagar and Vasant Vihar. This pilot project is a replication of Hubli-Dharwad and Nagpur 24X7 water supply scheme. Bids will be invited for companies to take up water distribution services.

b) What reasons have been stated by Delhi Government in order to implement reforms?

Following are the reasons:

- A. Gap between demand and supply of water in the city
- B. Huge revenue losses incur by DJB due to unmetered connections
- C. Inadequate distribution system
- D. Loss of huge quantum of water in transit
- E. Inadequate infrastructure
- F. Supply of large quantity of non-revenue water.

c) Has any Government committee been set up for such reforms?

The Planning Commission has asked the Delhi Government to initiate long-term planning in conservation, treatment and efficient distribution of water. In view of this, the Delhi Government has set up a high powered committee to prepare a roadmap for involving private companies in distribution of water in the city and to restructure DJB. The committee will come up



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with report in a month. So far the Delhi Government is considering handing over three services related to water supply namely distribution of water, billing of water and revenue collection. It is pertinent to mention here that the involvement of private players in water distribution in Delhi was debated during the budget session of the Delhi Assembly.

d) What are the services which Delhi Government is considering to transfer with respect to water supply regime under these reforms?

Following services:

- A. Distribution of water
- B. Billing of water
- C. Revenue collection

e) Enumerate National and International agencies involved in these reforms and their role?

Following are the agencies involved:

1. Infrastructure Leasing and Financial Services Limited (*IL&FS*)
Engaged to draft the plan for outsourcing the distribution and revenue collection in Nangloi areas. Report is due on data about connections, consumers and revenue details.

2. Stup Consultants

3. Rathi Consultants

Engaged to draft the plan for outsourcing the distribution and revenue collection in Malviya Nagar.

4. Tata Consultancy Services

Engaged for supply and, installation and maintenance of 2.5 lakh water meters in Delhi.

Already doing it since last year.

5. Japan International Cooperation Agency (JICA)

To preparing a master plan which will address following issues pertaining to DJB:

- i. Non-revenue losses
- ii. Inadequate distribution system
- iii. Loss of huge quantum of water in transit.
- iv. Inadequate infrastructure
- v. Supply of large quantity of non-revenue water.

Report is due

6. Discoms

i. For management of water treatment units namely Wazirabad, Chandrawal, Sonia Vihar, Nangloi, Haiderpur and Bhagirathi under PPP arrangement with DJB.

ii. For metering, billing, collection and water distribution. Discussion stage with DJB

f) Has any political party opposed the reforms in New Delhi?

Yes, the whole issue of involving private companies in water distribution system by Delhi Government has gained political momentum. The political parties have condemned such kind of water supply reform. The CPI (M) Delhi Committee has called proposal to privatize water distribution as 'anti people'. They have also raised concern about the exorbitant increase in water tariff by DJB in last 15 months and have asked to rework prevailing tariff structure especially for the resident of resettlement and poor colonies. BJP is intending to take legal action on the issue of involving private companies for water

distribution system. They said that the decision has been taken by the Delhi Government even after facing the stiff resistance from the public representatives and senior officials. They have also asked for a Central Vigilance Commission inquiry on the process of passing tender of a single company for the supply of 2.5 lakhs water metres. As per the direction of CVC, if a single company comes forward for tendering then the tender would be invited again.

g) What is needed by the Government to do?

The decisions on reforms and other initiatives are being reported by the media. Currently media is the only source of information. The Delhi Government should take following initiatives to inform public about the reforms:

A. All the documents pertaining to reforms must be available on the DJB website or Delhi Government portal.

i) Reports of Committees.

ii) MOUs between Government and Private Companies with respect to water distribution, revenue collection and other related activities.

iii) Financial Expenditure statements with respect to reforms.

iv) Up-to-date minutes of the meetings of DJB.

v) All the major decisions taken with respect to reforms.

vi) Delhi Assembly Debates pertaining to reforms.

vii) Objections of representatives of people, Government officials.

B. Wide public consultations must be held by involving experts, civil societies, academicians and people representatives.



Right to water and sanitation is legally binding, affirms key UN body

1 October 2010 –The main United Nations body dealing with human rights has [affirmed](#) that the right to water and sanitation is contained in existing human rights treaties, and that States have the primary responsibility to ensure the full realisation of this and all other basic human rights.

While the General Assembly declared in July that safe and clean drinking water and sanitation is a human right essential to the full enjoyment of life and all other human rights, this is the first time that the Human Rights Council has declared itself on the issue.

“This means that for the UN, the right to water and sanitation, is contained in existing human rights treaties and is therefore legally binding,” said the UN Independent Expert on human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque.

“This landmark decision has the potential to change the lives of the billions of human beings who still lack access to water and



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sanitation," she said of the resolution adopted yesterday by the Geneva-based Council.

Almost 900 million people worldwide do not have access to clean water and more than 2.6 billion people do not have access to basic sanitation. Studies also indicate about 1.5 million children under the age of five die each year and 443 million school days are lost because of water- and sanitation-related diseases.

The Assembly's resolution recognized the fundamental right to clean water and sanitation, but did not specify that the right entailed legally binding obligations.

The Council closed this gap by clarifying the foundation for recognition of the right and the legal standards which apply, according to a news release.

"The right to water and sanitation is a human right, equal to all other human rights, which implies that it is justiciable and enforceable," said Ms. de Albuquerque. "Hence from today onwards we have an even greater responsibility to concentrate all our efforts in the implementation and full realization of this essential right."

Intervention of the Permanent Representative of Bolivia

Speech delivered by Ambassador Pablo Solón of the Plurinational State of Bolivia before the General Assembly of the United Nations on 28 July, 2010

Allow me to begin the presentation of this Resolution by recalling that human beings are essentially water. Around two thirds of our organism is comprised of water. Some 75% of our brain is made up of water, and water is the principal vehicle for the electrochemical transmissions of our body.

Our blood flows like a network of rivers in our body. Blood helps transport nutrients and energy to our organism. Water also carries from our cells waste products for excretion. Water helps to regulate the temperature of our body.

The loss of 20% of body water can cause death. It is possible to survive for various weeks without food, but it is not possible to survive more than a few days without water. Water is life.

That is why, today, we present this historic resolution for the consideration of the plenary of the General Assembly on behalf of the co-sponsoring countries of: Angola, Antigua and Barbuda, Azerbaijan, Bahrain, Bangladesh, Benin, The Plurinational State of Bolivia, Burundi, Central African Republic, Congo, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Eritrea, Fiji, Georgia, Guinea, Haiti, Madagascar, Maldives, Mauritius, Nicaragua, Nigeria, Paraguay, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Serbia, Seychelles, The Solomon Islands, Sri Lanka, Tuvalu, Uruguay, Vanuatu, The Bolivarian Republic of Venezuela, and Yemen.

The right to health was originally recognized by the World Health Organization in 1946. In 1948, the Universal Declaration of Human Rights declared "the right to life," "the right to education," and "the right to work," among others. In 1966, these were furthered in the International Covenant on Economic, Social and Cultural Rights with the recognition of "the right to social security," and "the right to an adequate standard of living," including adequate food, clothing and adequate shelter.

However, the human right to water has continued to fail to be fully recognized, despite clear references in various international legal instruments, such as: the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities.

This is why we, the co-sponsors, present this resolution in order that we now recognize the human right to water and sanitation, at a time when illness caused by lack of drinking water and sanitation causes more deaths than does war.

Every year, 3.5 million people die of waterborne illness. Diarrhea is the second largest cause of death among children under five. Lack of access to potable water kills more children than AIDS, malaria and smallpox combined. Worldwide, approximately 1 in 8 people lack potable water.

In just one day, more than 200 million hours of women's time is consumed by collecting and transporting water for domestic use.

The situation of lack of sanitation is far worse, for it affects 2.6 billion people, or 40% of the global population. According to the report on sanitation by the Independent expert, "Sanitation, more than many other human rights issue, evokes the concept of human dignity; consider the vulnerability and shame that so many people experience every day when, again, they are forced to defecate in the open, in a bucket or a plastic bag. It is the indignity of this situation that causes the embarrassment."

The vast majority of illnesses around the world are caused by fecal matter. It is estimated that sanitation could reduce child death due to diarrhea by more than one third. On any given day, half of the world's hospital beds are occupied by patients suffering from illnesses associated with lack of access to safe water and lack of sanitation.

Mr. President,

Human rights were not born as fully developed concepts, but are built on reality and experience. For example, the human rights to education and work included in the Universal Declaration on Human Rights were constructed and specified over time, with the International Covenant on Economic, Social and Cultural Rights and other international legal instruments such as the Declaration on the Rights of Indigenous Peoples. The same will occur with the human right to water and sanitation.

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That is why we emphasize and encourage in the third operative paragraph of this resolution that the independent expert continue working on all aspects of her mandate, and present to the General Assembly “the principal challenges related to the realization of the human right to safe and clean drinking water and sanitation and their impact on the achievement of Millennium Development Goals.”

The Summit on the Millennium Development Goals is approaching, and it is necessary to give a clear signal to the world that drinking water and sanitation are a human right, and that we will do everything possible to reach this goal, which we have only 5 more years to achieve.

That is why we are convinced of the importance of the second operative paragraph of this resolution, which “Calls 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.”

All resolutions contain a passage that we can point to as the heart of the matter, and the heart of this resolution is in its first operative paragraph. Throughout many informal consultations, we have striven to accommodate the different concerns of the Member States, leaving aside issues that do not pertain to this resolution and always seeking balance, but without losing the essence of the resolution.

The right to drinking water and sanitation is a human right that is essential for the full enjoyment of life.

Drinking water and sanitation are not only elements or principal components of other rights such as “the right to an adequate standard of living.” The right to drinking water and sanitation are independent rights that should be recognized as such. It is not sufficient to urge States to comply with their human rights obligations relative to access to drinking water and sanitation. Instead, it is necessary to call on states to promote and protect the human right to drinking water and sanitation.

Mr. President,

In our effort to seek transparency and understanding without losing perspective on the essence of this resolution, in the name of the cosponsors we would like to propose an oral amendment to the first operative paragraph of the resolution that would replace the word “declares” with the word “recognizes.”

Mr. President,

Before moving to the consideration of this resolution, I would like to ask all delegations to bear in mind the fact that, according to the 2009 report of the World Health Organization and UNICEF entitled “Diarrhoea: Why children are still dying and what can be done,” 24,000 children die in developing countries every day from preventable causes like diarrhea contracted from unclean water. That is one child death every 3.5 seconds. One, two,

three... As my people say, “Now is the time.” Thank you very much.



General Assembly

GA/10967

28 July 2010

Sixty-fourth General Assembly Plenary 108th Meeting (AM)

General Assembly Adopts Resolution Recognizing Access to Clean Water, Sanitation as Human Right, Vote of 122 in Favour, None against, 41 Abstentions

By a vote of 122 in favour to none against, with 41 abstentions, the General Assembly today adopted, as orally revised, a resolution calling on States and international organizations to provide financial resources, build capacity and transfer technology, particularly to developing countries, in scaling up efforts to provide safe, clean, accessible and affordable drinking water and sanitation for all.

By a text on the human right to water and sanitation, the Assembly expressed deep concern that some 884 million people were without access to safe drinking water and more than 2.6 billion lacked access to basic sanitation. Bearing in mind the commitment to fully achieve the Millennium Development Goals, it expressed alarm that 1.5 million children under five years old died each year as a result of water- and sanitation-related diseases, acknowledging that safe, clean drinking water and sanitation were integral to the realization of all human rights.

Introducing the text, Bolivia’s representative said the human right to water had not been fully recognized, despite references to it in various international instruments. Lack of access to water killed more children annually than AIDS, malaria and measles combined, while the lack of sanitation affected 2.6 billion people, or 40 per cent of the global population, he pointed out. The upcoming summit to review progress on the Millennium Development Goals must provide a clear signal that water and sanitation were human rights, he emphasized, reiterating that the right to drinking water and sanitation was essential for the full enjoyment of life.

Hinting at differences over whether the Assembly should have taken action on the text, the representative of the United States said before the adoption that his delegation would abstain from voting. The United States, which had called for the vote, had hoped to join a consensus that would uphold the process under way at the Geneva-based Human Rights Council, he said. Instead, the text could undermine that work because it described the right to water and sanitation in a way not reflected in existing international law. Moreover, the text had not been drafted in a transparent manner, he said, noting that the legal implications of a declared right to water had not yet been fully considered in the Assembly or in Geneva.



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Some delegates, speaking before the adoption, expressed regret that a vote had been called in the absence of consensus, saying they viewed the draft not as a threat to the “Geneva process” on water and sanitation, but rather as one of its components. Some expressed regret that the text had provoked division, despite awareness of the importance of access to safe drinking water and sanitation. Germany’s representative said the text included important elements of the work going on in the Human Rights Council and of the independent expert on the subject.

Other delegates, speaking after the adoption, welcomed the resolution’s treatment of important issues, with Egypt’s representative saying he had voted in favour on the basis of an understanding that it did not create new rights, or sub-categories of rights, other than those contained in internationally agreed human rights instruments. Acknowledging the need to set aside controversial questions of international water sources and transboundary water, he said the Egyptian Government trusted that the text would bring such questions to the fore and add impetus to the Geneva process.

Background

The General Assembly met this morning to appoint the new Under-Secretary-General for Internal Oversight Services. It was also expected to finalize elections to the Governing Council of the United Nations Environment Programme (UNEP) and to take action on a draft resolution concerning the human right to water and sanitation (document (A/64/L.63/Rev.1).

Action on Draft Resolution

The Assembly then resumed its consideration of agenda item 48, on the “integrated and coordinated implementation of and follow-up to the outcomes of major United Nations conferences and summits in the economic, social and related fields”.

Introducing a draft resolution on the human right to water and sanitation (document A/64/L.63/Rev.1), the representative of Bolivia said that human right had not been fully recognized, despite references to it in various instruments, including the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and others. Each year, more than 3.5 million people died from diseases spread by contaminated water, he said, pointing out that the lack of access to water killed more children annually than AIDS, malaria and measles combined. One of every eight people lacked access to drinking water, and each day, women spent more than 200 million hours on transporting water.

Meanwhile, lack of sanitation affected 2.6 billion people, or 40 per cent of the global population, he continued, stressing that, more than any other human rights issue, sanitation raised the concept of human dignity. Proper sanitation could reduce by more than one third the number of children’s deaths from diarrhoea. Half of all hospital beds were occupied by people suffering from diseases caused by a lack of water and sanitation, he said, adding that the upcoming Millennium Development Goals Summit must provide a clear signal that water and sanitation were human rights.

The draft resolution urged States and international organizations to provide resources and to foster the transfer of technology to developing countries, with a view to providing access to water and sanitation, he said, pointing out that the heart of the text lay in operative paragraph 1. The right to drinking water and sanitation was essential for the full enjoyment of life. It was not enough to urge States to comply with their obligations; they must be urged to protect the right to drinking water and sanitation. With that, he proposed an oral amendment to paragraph 1, changing the word “declare” to “recognize”.

The representative of Germany, speaking ahead of action, said that some 884 million people worldwide had no access to clean water and some 2.6 billion lacked access to adequate sanitation. Germany was committed to the Millennium Development Goals, including that of halving the number of people without access to safe drinking water and adequate sanitation by 2015, he said, adding that the right of access to both was recognized in the International Covenant of Economic, Social and Cultural Rights, alongside the right to food and others. Germany would vote in favour of the text and regretted that consensus had not been achieved, necessitating a recorded vote.

Unlike some, Germany saw the text not as a threat to the European Union-led “Geneva process” on water and sanitation, but rather as another component of that process, he stressed. At the same time, Germany would have preferred that the text include more language proposed by the European Union. It nevertheless included important elements of the work going on within the Human Rights Council and that of the independent expert on the subject. Germany invited delegations to support and participate actively in the Geneva process in order fully to understand the right to water and sanitation.

The representative of Spain said his delegation had hoped that the suggestions proposed by the European Union would be included in the text, and that it would subsequently be adopted by consensus. Spain was pleased with the oral amendment put forward by Bolivia, which made it possible to better link the resolution with the work of the independent expert. Still, water and sanitation were components of the right to a suitable life under the International Covenant on Economic, Social and Cultural Rights, he said, expressing regret that proposals to include language on the independent expert’s work had not been taken into account. Nevertheless, Spain would vote in favour of the text, he said.

The representative of Hungary said her Government considered access to water and sanitation to be part of the right to an adequate standard of living, and that was why the Hungarian delegation would vote in favour, despite concerns about how it had been negotiated. The Geneva process should clarify States’ human rights obligations vis-à-vis water and sanitation, he said, adding that the overall aim of the Geneva process would indeed have been better served if the text had been adopted by consensus. Regrettably, it had provoked division, despite awareness of the importance of access to safe drinking water and sanitation, she said, reiterating the important role of the Geneva process and urging all States to participate actively in it.



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The representative of the United States expressed his Government's deep commitment to finding solutions to global water challenges, noting that water and sanitation would be an important focus at the upcoming Millennium Development Goal Summit. Safe and accessible water supplies furthered the realization of certain human rights, he said, noting that his country supported the work of the Human Rights Council's Independent Expert on human rights obligations relating to access to safe drinking water and sanitation. The United States looked forward to receiving her next report, and to a more inclusive, deliberative approach to such vital issues in Geneva than had been seen in New York.

He said his delegation had hoped to negotiate and ultimately join the consensus on a text that would uphold the process under way at the Human Rights Council. Instead, the text fell far short of enjoying unanimous support among States and might even undermine the work under way in Geneva. It described the right to water and sanitation in a way not reflected in existing international law since there was no "right to water and sanitation" in an international legal sense, as described by the resolution.

Expressing regret that the text had diverted the Assembly from the serious international efforts under way to promote greater coordination on water and sanitation issues, he said it attempted to take a short cut around the serious work of formulating, articulating and upholding universal rights. It had not been drafted in a transparent, inclusive manner, and neither the Assembly, nor the Geneva process had yet considered fully the legal implications of a declared right to water. For those reasons, the United States had called for a vote and would abstain in the voting, he said.

The representative of Brazil said the right to water and sanitation was intrinsically connected to the rights to life, health, food and adequate housing. It was the responsibility of States to guarantee those rights to all citizens, and Brazil had been working within and outside its borders to promote access to water and sanitation, especially in low-income communities. Pointing out that treaty-based and non-treaty based human rights bodies were based in Geneva, she said the United Nations headquarters there was the best forum for the current discussion. Nevertheless, Brazil would vote in favour of the text.

The representative of Turkey, recalling that the Human Rights Council had recently created the mandate of the independent expert and passed a resolution on the same subject, said the matter was before the Council and the Geneva process was ongoing. The text prejudged the outcome of those discussions and Turkey would therefore abstain from the vote.

The Assembly then adopted the resolution by a vote of 122 in favour to none against, with 41 abstentions.

Immediately after the vote, the representative of Portugal pointed out that three countries were missing from the voting board. A Secretariat official said Portugal's remarks would be reflected in the records. The representative of Portugal pointed out that his country had not been mentioned in the vote. The Secretariat's official said he would check on Portugal's request, and then asked the three States not reflected in the voting how they had

voted. According to their respective representatives, Portugal and Togo had voted in favour while Luxembourg had abstained. The official then recalled that the text had been adopted as orally revised.

The representative of Argentina, speaking in explanation of position after the vote, said the main human rights treaties were pillars of his country's legal order. The importance of drinking water and basic sanitation had been recognized by many instruments supported by Argentina, he said, stressing that it was the main responsibility of States to ensure that people had access to safe drinking water and sanitation. As such, Argentina had voted in favour.

The representative of Norway said his delegation gave high priority to the right to water and sanitation and had voted in favour of the text. Norway regretted that it had been impossible to achieve a consensus, but hoped discussions would continue in Geneva, and that Member States would support the work of the independent expert.

The representative of Guatemala welcomed the efforts of Bolivia and other co-sponsors to come up with a text that was acceptable to the majority of Member States. While Guatemala would have preferred consensus because it agreed with the essence of the text, if not its overall content, the right of access to clean water and adequate sanitation was in line with its efforts to address the needs of its citizens, and to achieve the Millennium Development Goals. Guatemala understood that the adoption of the resolution did not lead to any right or obligation at the international level.

The representative of Egypt's said he had voted in favour based on the understanding that the resolution did not create new rights or sub-categories of rights, other than those contained in internationally agreed human rights instruments. States had the obligation of ensuring the full enjoyment of basic human rights, he said, adding that doing so depended on the varying capacities of States, and that such a task was not expected to be achieved overnight.

Acknowledging the need to set aside controversial questions of international water sources and transboundary water, he expressed regret that the resolution had been put to a vote. The Government of Egypt was mindful that certain human rights obligations relating to access to safe water and sanitation had yet to be studied. Hopefully, the resolution would bring such questions to the fore and add impetus to the Geneva process, with a view to achieving consensus.

The representative of New Zealand, explaining her delegation's abstention, said she appreciated that access to safe water and sanitation was related to development and realization of the Millennium Development Goals. However, it was also concerned that the text had been tabled before the delegation had had an opportunity to consider its provisions. New Zealand supported the Human Rights Council's independent expert's efforts to clarify the content of human rights obligations relating to safe water and sanitation, she said.

The representative of Chile said his delegation had voted in favour because it considered that the aim of the text was to



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provide impetus to the relevant Millennium Development Goals. It also understood that the resolution was not an attempt to prejudge the way in which States handled their own water and sanitation legislation.

The representative of Australia said access to water and sanitation was linked to a range of civil rights, and noted that more than half the people in the Asia-Pacific region lacked access to water and sanitation. Despite having increased its development assistance, Australia nevertheless had reservations about declaring new human rights in a General Assembly resolution. Indeed, when new rights were recognized, consensus was essential. Australia had followed the work of the independent expert, who should have been able to report on it before the text was tabled.

The representative of Costa Rica said her delegation had voted in favour because access to water was an inalienable right. Every State had the primary responsibility to provide its citizens with access to water and sanitation, and Costa Rica supported the Geneva process, as well as the work of the independent expert on the subject. She said the Geneva process aimed to provide a better understanding and she would have hoped that the resolution would have included language on the work under way in Geneva. Costa Rica was also concerned about the absence of consensus, especially when the international community was about to undertake an assessment of the status of the Millennium Development Goals.

The representative of Botswana said his delegation had been unable to vote in favour of the text in its present form, and voiced regret over the absence of consensus. The Geneva process should have been given time to mature, and the work on water and sanitation should have continued under the auspices of the Human Rights Council, he added.

The representative of the United Kingdom said her delegation had abstained for reasons of substance and procedure. Concerning substance, there was no sufficient legal basis for declaring or recognizing water or sanitation as freestanding human rights, nor was there evidence that they existed in customary law. As for procedure, it was disappointing that the text pre-empted the work going on in the Human Rights Council, she said, noting that the United Kingdom had supported the resolution establishing the independent expert, as well as the text on human rights and access to safe water and sanitation, adopted in 2009. Indeed, the work in Geneva had been progressing, she added.

Expressing concern about the resolution's impact on the full enjoyment of human rights, she warned that if current trends continued, the Millennium Development Goal on sanitation might not be met until 2049. She then described her country's efforts, saying it had helped 1.8 million people in Africa and 25.5 million more in South Asia gain access to basic sanitation. It was to be hoped that the upcoming Millennium Development Goals Summit would pay much-needed attention to that and other Millennium targets. She expressed regret that today's initiative had not been pursued with consensus in mind.

The representative of Colombia said his country had voted in favour and would interpret the resolution in line with its domestic

legislation and obligations under human right treaties. He expressed hope that the Geneva process would continue in line with the technical and legal approach, but Colombia did not agree with certain aspects of the negotiation process. It did not know why the co-sponsors had not accepted certain proposals, and there had been a lack of opportunity to discuss that issue, he said, adding that the vote had established an unsuitable precedent in human rights matters.

Moreover, operative paragraph 1 did not identify the basic constitutional elements around the right to water and sanitation, he continued, pointing out that the uses of water should include a definition of its characteristics. Nor did the text refer to aspects deserving immediate attention, like the non-discriminatory nature of water, he noted, stressing that States should interpret it in line with relevant human rights instruments. The Assembly understood the right to water and sanitation as having been derived from other rights, while the jurisprudence applied by Colombia's Constitutional Court noted that water only had character when used for drinking. The Court had indicated that protecting the right to drinking water was not suitable in situations upon which human life was not dependent, he said, pointing out that States were obliged only to ensure delivery of public services.

The representative of France expressed regret that a resolution on the basic right to water and sanitation had not been adopted by consensus. At the same time, he welcomed the work undertaken in Geneva to ensure that the right was fully implemented. France called on all Member States to come together in addressing such rights, especially in light of the upcoming Millennium Development Goals Summit.

The representative of Japan expressed regret that the resolution had not been adopted by consensus, recalling that for decades, the Japanese Government had been the largest bilateral donor to the water sector worldwide. Japan also supported the Geneva process, and deeply regretted that an exhaustive discussion on the right to clean water and adequate sanitation had not been held before the resolution had been tabled. Japan had therefore abstained, she said, adding that her country would continue to support the process while sparing no effort to help all countries achieve the Millennium Development Goals.

The representative of the Russian Federation said the resolution raised important issues, especially in light of the upcoming review of the implementation status of the Millennium Development Goals. Still, the Russian Federation was concerned that the text had not been adopted by consensus, and hoped discussions would continue.

The representative of Peru said he had voted in favour of the resolution with the understanding that its aims were carried out in respect of the territorial order and sovereign resources of States.

The representative of Singapore said her country was a small island without natural resources, including water. Nevertheless it carried out national efforts to deliver that crucial resource to all its citizens, she said, adding that she had voted in favour while believing that discussions on the right of access to clean water and adequate sanitation should continue, and the scope of obligations should be clarified.



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The representative of Belgium said he had voted in favour and appreciated the efforts of Bolivia and others in crafting the text. Regrettably, no consensus had been reached and some important suggestions by the European Union had not been included in the text.

The representative of Pakistan said he had voted in favour to help ensure access to clean water and good sanitation for all people, but emphasized that the situation of developing countries must be taken into account in implementation.

The representative of the Netherlands said he had abstained although his country recognized the right to clean water and good sanitation, as reflected in its assistance promoting access for 50 million people by 2015. However, the text placed insufficient responsibility on national Governments, upon which citizens must be able to rely and from which they must obtain redress. In addition, it would make reports of the Human Rights Council's independent expert counter-productive, he said, adding that he was also not happy with the General Assembly's "ad hoc" declaration of the right since the resolution had unnecessary political implications.

The representative of Mexico said he had voted in favour because his country acknowledged the right of access to clean water and good sanitation as already extant in international documents. Mexico would continue to make the necessary efforts to increase access, within its constitutional requirements and international obligations, he said, stressing, however, that it was up to national Governments to provide access, and necessary to continue in-depth discussions in order to move forward on the very important issue.

The representative of Ethiopia said he had abstained although access to clean water was a natural right. States had the sovereign right to their own natural resources, according to the United Nations Charter, and that principle should have been included in the text, he noted.

The representative of Canada said his delegation had joined the consensus on the resolution that had created the mandate of the independent expert. The work of that mechanism was expected to further promote study of the issue of access to water and sanitation as a human right and, as such, the text was premature. The non-binding resolution appeared to determine that there was indeed a right without setting out its scope. Since there was no consensus on the matter it was premature to declare such a right in the absence of clear international agreement, he said, adding that he had abstained from the vote.

The representative of Switzerland said that while her delegation supported the process of ensuring access to water and sanitation for all, it did not generally support repetitive or competing resolutions, and hoped that in the future, that would be taken into consideration. Switzerland had proposed that the text include language on the recognition of water and sanitation under international instruments, but to no avail, she said, adding that she had nevertheless voted in favour.

The representative of Liechtenstein said he had voted in favour of the text because he agreed with its essence. However, it was regrettable that a vote had been called, and that such an

important issue had been dealt with in a "simplistic manner". There were explicit rights recognized in international human rights law which implied many others, and that was true of water and sanitation. At the same time, Liechtenstein understood that the resolution did not create a new right and that its aims fell under existing international human rights law.

The representative of Equatorial Guinea said his delegation supported the resolution and was pleased that no Member State had voted against it. Water and sanitation were matters of national sovereignty and Equatorial Guinea was carrying out massive projects to ensure access to clean water and adequate sanitation.

The representative of Albania said he had not been present for the vote and wished to place on the record that he would have abstained.

The representative of Yemen, as a co-sponsor of the resolution, stressed the importance of water for life, which led to its being a natural right. Water was one of the greatest challenges of modern times — the oil of the twenty-first century. He thanked delegations that had voted in favour, calling the resolution a major step forward, although Yemen would have preferred unanimity.

The representative of Cuba said the adoption was an historic moment, stressing the immense need for clean water and sanitation services around the world. Cuba, which had realized the Millennium Development Goal on access to water in 1995, affirmed the right to access, and welcomed the fact that the universal representative body had adopted the resolution after an inclusive process. The text took into account the concerns of many delegations and complemented the discussion in the Human Rights Council, he added.

The representative of Nicaragua also welcomed the adoption as an historic milestone after some 15 years of discussion at the global level. It was particularly important ahead of the review of progress towards the Millennium Development Goals, he said, describing access to water and sanitation as crucial for the dignity and health of people all over the world.

The representative of Venezuela said the adoption was a fitting response to the 1.2 billion people lacking access to drinking water, the billions more without access to proper sanitation, and the millions who died every year as a result. Since water was a necessity for life, Venezuela emphatically rejected its transformation into a commodity, he stressed.

The Observer for Palestine welcomed the adoption and affirmed the right of access to clean water and sanitation as universal human rights that should be enjoyed by all people, including those living under occupation. Indeed, access to water and sanitation was a key final-status issue with regard to the Israeli-Palestinian question. Israel's ongoing violations of the Palestinian people's access to water hampered their enjoyment of other rights, he said, noting that, among other grievances, Palestinians were only allowed access to 10 per cent of their own water. He called on Israel to comply with its international obligation to ensure access to water, as well as its other international obligations.



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ANNEX

Vote on Human Right to Water

The draft resolution on the human right to water and sanitation (document A/64/L.63/REV.1) was adopted by a recorded vote of 122 in favour to none against, with 41 abstentions, as follows:

In favour: Afghanistan, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Benin, Bhutan, Bolivia, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Finland, France, Gabon, Georgia, Germany, Ghana, Grenada, Guatemala, Haiti, Honduras, Hungary, India, Indonesia, Iran, Iraq, Italy, Jamaica, Jordan, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Liberia, Libya, Liechtenstein, Madagascar, Malaysia, Maldives, Mali, Mauritius, Mexico, Monaco, Mongolia, Montenegro, Morocco, Myanmar, Nepal, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Portugal, Qatar, Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Switzerland, Syria, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tunisia, Tuvalu, United Arab Emirates, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Zimbabwe.

Against: None.

Abstain: Armenia, Australia, Austria, Bosnia and Herzegovina, Botswana, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Ethiopia, Greece, Guyana, Iceland, Ireland, Israel, Japan, Kazakhstan, Kenya, Latvia, Lesotho, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Poland, Republic of Korea, Republic of Moldova, Romania, Slovakia, Sweden, Trinidad and Tobago, Turkey, Ukraine, United Kingdom, United Republic of Tanzania, United States, Zambia.

Absent: Albania, Belize, Cameroon, Chad, Fiji, Gambia, Guinea, Guinea-Bissau, Kiribati, Malawi, Marshall Islands, Mauritania, Micronesia (Federated States of), Mozambique, Namibia, Nauru, Palau, Papua New Guinea, Philippines, Rwanda, Saint Kitts and Nevis, Sao Tome and Principe, Sierra Leone, Suriname, Swaziland, Tonga, Turkmenistan, Uganda, Uzbekistan.

Understanding Rights:

Radha D Souza

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Radha D'Souza teaches law at the University of Westminster, UK. She is a social justice activist from India, where she worked

in labour movements and democratic rights movements, first as organiser and later as activist lawyer. Radha is a writer, critic and commentator, and has worked with solidarity movements in the Asia-Pacific region.

Before we look at the problems associated with "rights" it is important to understand what the word means, not least because it means different things to different people at different times. "Rights" are commonly understood to mean entitlements to do or not do something, and for others to respect that entitlement. Social justice activists often believe that the corollary of "rights" is obligations and responsibilities, and that social injustices exist not because of problems with the concept of "rights" as such but because the concomitant of "rights" – "obligations" and "responsibilities" – have been erased from our thinking and from debates about "rights". These beliefs are based on misunderstandings of the real nature of "rights". The misunderstandings arise partly because "rights" are a philosophical, political and juridical idea, and the concept and its meanings in philosophy, political theory and law are not the same. Confusions arise because the three overlapping fields are used interchangeably in different contexts.

In part, misunderstandings about "rights" persist within social justice movements because they have forgotten the history of "rights" and the critique of "rights" by revolutionary thinkers of the late nineteenth and early twentieth centuries, and the political programmes of the successful movements for socialism and national liberation struggles to alter the nature of "rights". As a result, social movements, instead of learning from and developing those revolutionary experiences, have discarded the history of struggles against "rights" and feel frustrated that "rights" do not work, but have nothing to offer beyond "rights". If we wish to move forward, it is important therefore to grasp the concept of "rights", its history and the critique of "rights" by radical movements of working people in the past.

It may be noted that the concept of "rights" is peculiar to Greco-Roman civilisations, but its history need not concern us here except to note that the philosophical concept was an objective concept associated with ethical and moral ideas of what is right or wrong. As all human beings are required to do "right" and abstain from doing "wrong", the philosophical concept was supposed to guide people in "right" actions.

Philosophers of capitalism

The philosophers of capitalism in the eighteenth and nineteenth centuries radically transformed the classical idea of "rights" into a subjective political idea attached to individuals who became "right bearers" vis-à-vis the state and society. The idea of "rights" was transformed into "freedom from state" and social constraints. As such, the corollary of "rights" is "freedom", "choice" and absence of restraint. Today, the philosophical idea of "rights" exists at best as a moral ideal because the political philosophers of capitalism have put rights on a different institutional and juridical foundation. When social justice activists speak of "rights" they have in mind this classical ideal, but often it is forgotten that the institutional and legal basis for objective "rights" do not exist any more.



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Capitalism developed the idea of “rights” to new levels by introducing two components that radically altered the nature of “rights”. First, philosophers of capitalism introduced the novel idea that property was a natural and inalienable right attached to every person in the same way as life, and the conditions that sustain life: air, water and food. Second, “rights” were articulated as negative juridical concepts, in that “rights” only guarantee the possibility of something, not the actual thing. Thus the right to collective bargaining creates the possibility of a living wage but does not guarantee a living wage; the right to property makes it possible to own a home but does not promise everyone a house to live in.

It is therefore wrong to think that through default, somehow, “rights” have come to be equated with property rights. “Rights” in its modern form and as a political idea owes its very existence to property rights, and is inseparable from it; and the concomitant idea of freedom is about freedom to own and accumulate property without interference from the state. Circumscribing property rights for social purposes does not take away its primacy in the political and legal order. Capitalism will be impossible if property rights are taken out of the scope of “rights”.

The revolutionary critique

Revolutionary social movements of the early twentieth century advanced three main philosophical criticisms against “rights”, which are still valid. First, the “empty shell” argument: liberal rights are negative endowments that promise the possibility of, but do not create the conditions for, their fulfilment. Second, that any talk of “rights” in politics must be backed by an economic system that facilitates it, and capitalist individualism, commodity production and market economy do not create the conditions for freedom from want and other freedoms; to the contrary they create bondage and oppression. Third, the “means to an end” argument: “rights” free labouring people from feudal obligations and old forms of oppression (caste, gender, and so on) and allow limited political space for organised dissent, which is useful not for its own sake but only if people actually organise themselves to create the conditions for real freedoms.

Socialist revolutions of the early twentieth century extended the philosophical critique to the political arena and removed property from the idea of “rights” and tried to infuse the idea of “rights” with positive substance, so that the right to a job meant that everyone should have a job, not just the possibility of finding a job; the right to education meant that schools should be free so that every child could go to one, and not just the possibility of education for those who could afford it, or those supported by charities.

Given this backdrop, is fighting for “rights” the road to follow? To say yes is effectively to go backwards in history or to argue, as some modern-day philosophers of capitalism such as Francis Fukuyama argue, that there is no alternative to liberalism in philosophy, politics and law, the foundations of which stand on the idea of “rights”. For emancipatory social movements, a more useful way of understanding the question of “rights” would be to interrogate critically the return of the “rights” discourse in the contemporary context of neo-liberalism. The socialist and

national liberation struggles articulated and attempted to achieve “human emancipation” and “liberation” from oppression, not “rights”. Neo-liberalism claims legitimacy on the grounds that this aspiration can no longer be fulfilled because socialism has been defeated. The real question then is: are we willing to concede the hope of human emancipation to “empty shell” possibilities of “rights” based on the primacy of property, which very few possess? Are we ready to concede that liberation from oppression is not possible because the economic system cannot be changed?

Limits of statute law

Turning to law, legal theorists, following in the footsteps of political theorists of capitalism, developed legal principles and innovated institutional mechanisms that sustain capitalism. The most significant legal development was the idea of statute law, by which we mean different Acts of legislature on different social issues enforced by a court system backed by police powers. This form of law, which most people today think is “natural”, as if that is how law has always been, came into existence only with capitalism, and is far from being “the way law has always been”. Under statute law, each aspect of social life is cast into a distinct legislation or statute which makes it difficult to envisage the social whole. What one statute gives another can take away. For example, a statute may provide for a minimum wage, but if prices go up as a result and cancel out the wage gains, that is not an issue that can be addressed within the scope of the minimum-wage legislation. A statute may grant the “right” to education, but treasury and fiscal management rules may simultaneously require cuts in spending. “Choice” then is limited to whether we allow budget cuts to affect the “right” to education or some other “right”, like health for example.

Socialist movements, while strong on philosophical critique and political action, were weakest in legal development and institutional innovation. If we wish to advance, and not go backwards, we need to rethink how we can recover the gains made by liberation struggles, what the weaknesses of those struggles were, why working people everywhere lost, and how we can regain the ground and consolidate the gains when they are recovered. Those who say there is no alternative to “rights” do so by forgetting the history of struggles against “rights”, and implicitly deny the possibility of emancipation and liberation.

Five themes

Social justice movements need to reflect on five broad themes in relation to “rights”. The first and most important is what may be called the “colonial question”. Neither liberal theory, nor politics, nor law extended “rights” to colonial subjects in the colonial era. Although based on liberal ideas and “rights” talk, the power structures of the post World Wars world privileged the victors, primarily the Allies, whether it be through the United Nations Security Council veto, or the weighted voting rights in the World Bank and the International Monetary Fund, or the dispute resolution mechanisms in organisations like the World Trade Organisation. The UN Charter by institutionalising and privileging the “rights” of the Allies and the victors in the Second World War, has perpetuated neo-colonialism, poverty and wars. Without challenging the constitution of the UN, any “rights” talk at nation-state level today is a non-starter. The “colonial question” in the



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neo-liberal era is a philosophical and political question, and it is not possible to find a juridical solution to a more fundamental problem of our times, as many social justice movements try to do when they advocate “rights” as the solution. Besides, the legal systems in “Third World” countries by and large were created by colonial powers and remain neo-colonial institutions. To speak of juridical ideas of “public goods” and “commons” and “community” without evaluating how their social substance has been warped by imperialism past and present is to insist on confusing appearance with reality.

Second, the impulse for “rights” talk today is largely driven by environmental questions, and is primarily about extending private property regimes to aspects of nature and natural resources, something that was impossible before but made possible today by technology. For example, water was attached to land rights until technology made it possible to separate water from land and deliver it across continents, a development that required legal and institutional innovation.

Third, while the political idea of “rights” promotes the idea of equal opportunities for all, the juridical idea rests on the foundational myth that the “corporate person” stands on the same footing as the “natural person”. The size and reach of corporations today are vastly different from what they were in the eighteenth or nineteenth centuries, and make the legal myth of the corporate person an absurdity. The real issue is whether “rights” claimed for the natural person can be extended to corporations. Cracking the juridical myth on which modern society is founded is a task that needs to be taken more seriously and fleshed out programmatically in politics.

Fourth, capitalism has transformed the structure of communities. Communities too are formed on market principles based on common “interests” in the market-place, and not allegiance to “people in places”. For example, a person joins a trade union because of common interest with others in the labour market, and joins a consumer organisation because of common interest in commodity prices, and joins a “water rights” movement because of interest in water, and so on. Interest-based communities alter the character of “rights” in fundamental ways. As each interest is governed by a different statute law enforced by a different set of institutions, it is no longer possible to find institutional and legal recognition of “people-in-places”, whose well-being requires the convergence of several interests.

It is sometimes argued that, notwithstanding all of the above, it is possible to create parallel enclaves where indigenous communities and knowledge flourish. This may be possible in the short term, but not in the long term, because imperialism is capitalism plus militarism, and both are by their very nature expansionist. Customs and traditions grow from economic and production relations. Colonialism arrogated to itself power over economic relationships and allowed “freedom” for cultural practices whether in the economy or society, as if tradition could exist without economic foundations. By doing that, imperialism appropriated the productivity and social stability following from the space provided for customary knowledge and practices. To insist on “customary rights” without considering the imperialist context and colonial history within which it survives is only to insist on being blind.

Fifth, there are three interrelated battlegrounds on which movements desirous of human emancipation must fight: the philosophical, the political and the economic. Each of these involves very different types of struggle, and yet emancipation is impossible without fighting on all three fronts. Of the three, economic struggles were prominent in the Cold War era; the end of the Cold War has seen the return of political struggles, and on both fronts emancipatory movements have gained considerable experiences and successes everywhere. On the philosophical front, emancipatory movements have more or less abandoned the field; and the conundrum of “rights” exemplifies this failure. Dismissed by social justice movements as “too academic” or irrelevant or simply talk-shops, and sometimes, sadly, with contempt for people’s intellectual capabilities – evidenced by arguments like “ordinary people will not understand philosophical issues” – abandoning this field of struggle is an important reason why emancipatory movements have become stuck in conceptual grooves. This is a problem in its own right for those who wish to get to the bottom of the “rights” conundrum.

24 May 2011



Economic and Social Council

HR/5061

Permanent Forum on Indigenous Issues; Tenth Session

As with So Many Other Human Rights, Indigenous Peoples Suffer Disproportionate. Violations of Right to Safe Water, Sanitation, Permanent Forum Told.

Special Rapporteur Says Situation ‘Direct Result of Policies and Politics’ Aimed at Excluding Certain People, as Forum Holds Half-Day Debate on Issue

With nearly a billion people living without access to an improved water source and 2.5 billion lacking access to improved sanitation facilities, the world faced a “true crisis” the Human Rights Council’s Special Rapporteur on the human right to safe drinking water and sanitation told the Permanent Forum on Indigenous Issues today, during a half-day discussion on the right to water.

Asking who exactly did not have access and why, Catarina de Albuquerque said it was always the same people — the marginalized, the poor and those without a political voice. In countries with indigenous populations, it too frequently included indigenous peoples. “Like so many other human rights, indigenous peoples suffer disproportionate violations of their rights to safe drinking water and sanitation,” she told the gathering of Member States, indigenous organizations, civil society and local and indigenous Governments.

Acknowledging that the participants in the Forum’s two-week annual session — which is expected to conclude Friday,



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27 May — were undoubtedly aware of that reality, she stressed that “such lack of access is not simply an unfortunate situation nor a coincidence, but is a direct result of policies and politics which exclude certain segments of the population”.

Sharing a lesson from her first country visit to Costa Rica after she took up her mandate in 2008, she said she had been dismayed by the lack of attention to improving the situation of that country’s indigenous peoples. With nearly universal access in urban areas and good access in many rural areas, Costa Rica was on track to meet the Millennium Development Goals on water and sanitation. However, its focus on that general “positive” trend overlooked the fact that indigenous people living in its two dozen indigenous reserves lacked access to safe drinking water or sanitation services, and specific, targeted and deliberate policies were needed to ensure such access was granted to them.

Noting that the activism of indigenous communities had been crucial in bringing such situations to light, she highlighted the Forum as another avenue for exposing human rights violations and pressuring Governments to ensure that indigenous rights were fully protected. She further encouraged participants to fight for indigenous peoples’ right and to continue to engage with the international human rights system, including through the special procedures system and its network of Special Rapporteurs, of which she was only one part.

“When violations of the right to water are being experienced, sadly, a host of other deprivations and violations are also reported,” she said, suggesting that indigenous communities could go further in using the United Nations mechanisms — including the mandates of the other special rapporteurs, the treaty monitoring bodies and the Universal Periodic Review — to claim their rights.

Among the other three speakers making introductory remarks this morning, Aicha Cheik Salah, of the Tidawt Organization in Niger, highlighted the complexities at the intersection of State approaches to water rights and the understanding of water among indigenous peoples. “How can we legislate a resource that is constantly moving?” she asked, pointing out that ideas of water ownership among the nomadic Toureg and Peulh peoples of the Sahara were based on oral traditions and differed from those of the State. Indeed, those nomadic communities were often confused by the written statements of companies or Governments, she said.

Echoing many speakers throughout the morning debate, she said it was critical that traditional practices be borne in mind in any water policy. She further stressed that water needed to be accessible and free according to the nomadic code, while monitoring the quality and quantity of the water available was also absolutely crucial.

Recalling the debate that surrounded the General Assembly’s adoption of a resolution in 2010 that confirmed the right to water and sanitation, Pablo Solón, Permanent Representative of Bolivia to the United Nations, stressed that it was irrelevant to talk about “derivative rights” in the case of water, since it was a right on the same level as all other rights. Citing the so-called Cochabamba “water wars” fought in his

country in 2000 over proposals for privatizing water, he said “it would be suicide to go down the road of a privatization and mercantilization of water and other resources”. That was particularly true, he suggested, with respect to the “green economy” concept, which was one of themes of the 2012 United Nations Conference on Sustainable Development, known as “Rio+20”.

In that regard, he was the first of many speakers to call for a new understanding of water and rights, saying that, “at Rio+20, we must begin to speak of the rights that water has”. He further underscored that water had its own laws and life cycle, adding that, paradoxically, water did not belong to anyone, although it belonged to everyone.

During the ensuing discussion, a number of speakers expressed alarm over increasing attacks on water — or what some called “aquacide” — from mega-projects such as dams, extractive industry practices and privatization schemes. This aggression towards water resources threatened indigenous peoples’ existence, several said, noting that water was traded, access was restricted and water sources were blocked.

Against that backdrop, speakers called on the Forum to conduct a study on indigenous peoples and water, including the impact of water resource use for industry. Calls were also made for a full investigation of the possible impacts of projects under reducing emissions from deforestation and forest degradation (REDD+) and other low-carbon or green economic strategies.

Many speakers emphasized the need to monitor human rights compliance by multinational corporations, requesting the Forum to implement a process to assess, evaluate and, as needed, propose measures for States to monitor corporations carrying out activities that affected the right of indigenous peoples to water. A number of speakers said that approach must specifically address free, prior and informed consent and the treaty right to water. Some also recommended the appointment of a special rapporteur to examine the privatization of water by multinational corporations.

Also speaking during the debate were the representatives from Spain, Cuba, Ecuador, Mexico and Sweden. Forum members from Guyana and Canada also offered comments.

Also participating in today’s discussion were representatives of the following indigenous organizations: Parlamento Indígena de América; the Global Indigenous Women’s Caucus; the Asia Indigenous Peoples’ Caucus; the Global Indigenous Youth Caucus, the Global Indigenous Peoples’ Caucus; the Pacific Caucus; the Foro Internacional de Mujeres Indígenas y Enlace Continental de Mujeres Indígenas de los América; the Southern Chiefs’ Organization; the Indigenous Peoples of Australia; the International Indian Treaty Council; Indigenous Peoples Link; the Indigenous World Forum on Water and Peace; the Jerusalem Bedouin Cooperative Committee; and the Amerindian Peoples Association of Guyana.

The Forum will reconvene at 10 a.m. Wednesday, 25 May, to continue considering its future work.



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Background

The Permanent Forum on Indigenous Issues met today to continue its tenth session, which is a review year in the Forum's three-year work cycle. It was expected to hold a half-day discussion on the right to water and indigenous peoples. For more information, please see Press Release [HR/5050](#).

Introductory Remarks

Kicking off the discussion, BERTIE XAVIER, a Permanent Forum member from Guyana, urged delegates and his fellow Forum members to consider the complexity of the right to water. Many people around the world lacked access to safe water and sanitation, he said. Today, natural disasters, climate change, the melting of the polar ice caps, and more competition for resources made it increasingly difficult for indigenous people to have access to safe water, he said. The consequences of the failure to manage natural resources such as water in a sustainable way had affected indigenous peoples, in particular. Additionally, economic activities, such as mining, agricultural development and others had contributed to the contamination of waterways on which indigenous people depended, often resulting in health and other problems. Legislation and policy must acknowledge and respect the rights of indigenous peoples to their traditional knowledge, he stressed, as well as their rights to hunt and gather food resources from waterways.

In March 2006, the international community had gathered in Mexico City for the Fourth World Water Forum, and had worked to set targets for reducing, by more than half, the number of people worldwide that did not have access to safe drinking water — as laid out by the Millennium Development Goals targets. Today, however, the discussion continued. There was an obligation on the part of States to protect the right of indigenous peoples to water, and, where possible, to prevent third parties, such as large development companies, from contaminating waterways. Comprehensive policies should reduce the depletion of water resources and eliminate the contamination of watersheds and others waterways. They should monitor water reserves in conjunction with indigenous peoples, and should ensure that any proposed development did not interfere with indigenous peoples' right to water. They should also always be in line with relevant environmental standards.

It was "pertinent and urgent" for the Forum to consider the issue of the right of indigenous peoples to water. Among other related research, a study should be conducted to determine the baseline quality of water. A twofold approach should be used, both respecting the right to water and protecting life. Additionally, the principle of free, prior and informed consent must be respected when considering that issue and indigenous peoples must be integrally involved in all decision-making processes on the waterways that they used. Governments needed to begin to implement policies that reflected those goals, he stressed, and community organizations, United Nations agencies, indigenous groups and other actors needed to work in close partnership to protect and promote the right to water.

CATARINA DE ALBUQUERQUE, Human Rights Council's Special Rapporteur on the human right to safe drinking

water and sanitation, said she had been working under her mandate since 2008 and since that time had been in touch with numerous indigenous peoples. "Like so many other human rights, indigenous peoples suffer disproportionate violations of their rights to safe drinking water and sanitation," she said. "The people in this room are no doubt well aware of this reality."

Nearly a billion people did not have access to an improved water source, she said, stressing that many more did not have access to safe water, while more than 2.5 billion people did not have access to improved sanitation facilities. "The numbers demonstrated that we are facing a true crisis," she said. However, beyond those enormous numbers, it must constantly be asked, "Who does not have access and why?" It was always the same people — the marginalized, the poor and those without a political voice, she said. In countries with indigenous populations, too frequently it was the indigenous who did not have access. "Such lack of access is not simply an unfortunate situation nor a coincidence, but is a direct result of policies and politics which exclude certain segments of the population," she stressed.

She said that, on her first country visit, which was to Costa Rica — a country that was on track to meet the Millennium Development Goals on water and sanitation — she was dismayed by the lack of attention to improving the situation of that country's indigenous peoples. While there was nearly universal access in urban areas and good access in other rural areas, the same could not be said for the two dozen indigenous reserves. She had been concerned by Costa Rica's focus on the general "positive" trend in water and sanitation, which overlooked the fact that specific, targeted and deliberate policies were needed to ensure that access was granted to the underserved, including the indigenous peoples.

She noted that she had received numerous reports about the threat to indigenous rights, including especially concerns about pollution of water sources. Those reports included a high number on the impact of mining operations — from uranium mining in the United States to the bauxite mining in India — indigenous peoples were seeing severe impacts on their access to clean water, as well as on their way of life and cultures. Indeed, projects to generate new sources of energy, such as dams and geothermal exploration, had been reported as having a serious impact on access to clean water for indigenous peoples.

Stressing that indigenous peoples often had a special or even spiritual relationship with water, she said she had witnessed that special bond during a visit with the Winnemen Wintu tribe in California a couple of months ago. However, the area used in a puberty ceremony had been turned into a recreational campground recently, challenging the privacy and dignity of the young women undergoing that ceremony, as well as the continuation of tribal practices.

She said the activism of indigenous communities had been crucial in bringing such situations to light. The Forum was indeed one opportunity to expose these human rights violations and pressure Governments to ensure that indigenous rights were fully protected. Noting, in that regard, the ground-breaking litigation in Botswana by the Basarwa concerning their right to



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water, she said the recent decision was very important not only in adding to jurisprudence protecting indigenous rights to remain on their ancestral lands, but also further solidifying the status of the right to water under international law. Indeed, the court referred to the recent General Assembly resolution on the right to water and sanitation and that denying the Basarwa the permission to use the bore hole located on the land where they reside amounted to degrading treatment, which was prohibited under the Convention against Torture.

Expressing her excitement about that law, she said the Court very wisely observed the indivisibility of human rights by talking about water, which was traditionally considered an “economic, social and political” right, in the same breath as degrading treatment, which was generally known as a “civil and political right”. Underscoring the need to keep sight of the indivisibility of human rights, she said that for indigenous peoples, in particular, the enjoyment of human rights should be considered in a holistic way, adding that such a holistic understanding was crucial for analysing indigenous rights and the right to water and sanitation.

She further noted that the right to water and sanitation provided that everyone should have access to sufficient, safe, affordable, and acceptable water and sanitation for personal and domestic uses. While water for agriculture fell under the rubric of the right to food, water for cultural and spiritual life fell within the understanding of cultural rights, as well as specific rights guaranteed to indigenous peoples. However, those lines were constantly blurred and to underline the individual experience and the loss of dignity that could occur when access to water was denied required taking a holistic view.

Turning to her work as the Special Rapporteur, he said her mandate was part of a larger system called the special procedures system, which was comprised of experts appointed by the Human Rights Council to examine specific themes related to human rights. Noting that the experts had the capacity to work jointly to raise concerns about violations of the rights of indigenous peoples, she said that when she received information related to water and indigenous peoples, she often saw situations that involved many other mandates. “When violations of the right to water are being experienced, sadly, a host of other deprivations and violations are also reported,” she stated.

She encouraged participants to fight for indigenous peoples’ right and to continue to engage with the international human rights system. She fully supported activism at the national and regional levels, as well. While acknowledging that those systems did not react as quickly and efficiently as many would hope and their impact was not as pronounced as would be wished, she stressed that such efforts were crucial for ending ongoing violations of the rights of indigenous peoples. The fact that things were hard was no reason for giving up, she said. On the contrary, as Portuguese poet Fernando Pessoa once said: “Stones in the road? I collect them all. One day I will build a castle.”

AICHA CHIEK SALAH, representing the Tidawt Organization in Niger, recalled that the 108th plenary session of the United Nations General Assembly in July 2010 had recognized the right to water as a fundamental human right. At

that time, delegations had explained their differing views on that matter, addressing in particular one question: was it a stand-alone right, or was it derived from other rights? While legislators were trained to address questions of land rights, they did not know how to address “moving resources” such as water, she said. The nomadic pastoral peoples of Africa, who moved based on several given parameters — including the types of plants available, the placement of waters, and others — lived in very difficult conditions when water was scarce or contaminated. Those challenges caused a large number of illnesses, high infant mortality, large losses of cattle and other problems. Freshwater was limited in the Saharan region, and its quality and quantity were threatened by the water needs of development, in particular mining companies. “They are very unenthusiastic about taking care of the environment,” she said of those companies, whose policies were based around exploiting resources as cheaply as possible.

She highlighted two types of law, traditional and modern, in the context of the nomadic Toureg and Peulh peoples of the Sahara. Traditional water laws for those peoples were very complex, and the idea of people belonging to a particular area was considered a very sensitive topic. Ideas of water ownership differed and were further complicated by the oral culture of those groups, as they were often confused by the written statements of companies or Governments. The idea that land belonged to the State destroyed many longstanding and delicate rights. “How can we legislate a resource that is constantly moving?” she asked. It was critical that traditional practices to be borne in mind in any water policy. Moreover, water needed to be accessible and free according to the nomadic code, she said. Monitoring of the quality and quantity of the water available was also absolutely crucial.

PABLO SOLÓN (Bolivia) recalled the big battles over water in Cochabamba, Bolivia, in 2000, noting that that fight aimed to change a proposed law to privatize a local water source. Following those protests, the law was modified and the fight allowed the Bolivian people to seek a deeper change through the recovery of its water sources, as well as the recovery of its own Government, which was no longer imposed from abroad.

Highlighting the resolution passed last year by the General Assembly, which confirmed the right to water and sanitation, he asked why 72 years had passed between the adoption of the United Nations Declaration of Human Rights and the adoption of that resolution. “Without water there was no life and without life there was no other human right,” he said, adding that, during the negotiation process of that resolution, two conclusions had been reached. The first touched on the intention of some of turning water into mere merchandise — a resource that would be very much more valuable than gold in the near future. The second was related to geopolitical fears over a resource that flowed across borders and was, in some cases, a source of conflict. Nonetheless, the resolution was adopted and served, he said, as a “guiding star”, because the future society must ensure all human rights.

He stressed that to talk about “derivative rights” in the case of water was irrelevant. Indeed, the right to water was a right on the same level as all other rights and a central point for



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discussion now was how to make the right to water a reality. Arguing that it hinged on financing, he said the debate concerned how to conserve resources. To his mind, it was “indefensible” that trillions went towards defence, while the same amount was not provided to protect natural resources. He noted one proposal, which said that, in a green economy, the water sector must be opened to the private sector, because that sector was the only one with sufficient funding to fully protect water. However, in light of Bolivia’s recent history, “it would be suicide to go down the road of a privatization and mercantilization of water and other resources,” he said.

He stressed that mechanisms were needed to generate resources in the water sector, including through taxes. Those mechanisms would create a fund that would help resolve the fundamental question regarding water. From the perspective of the Andean indigenous peoples, he noted, water was not a resource, but a living being that nourished the land, making it fertile. It also allowed humanity to progress. Paradoxically, water did not belong to anyone, although it belonged to everyone. Further, water had its own laws and life cycle. Indeed, the indigenous vision of water in the Andes did not consider water as H₂O, he said, urging the international community to recover that indigenous vision and abandon the green economy vision.

In that regard, he stressed that water had the right to have its life cycle. “At Rio+20, we must begin to speak of the rights that water has,” he stated. If the right to water was not respected, however, it was easy to imagine what would happen in the Andean region, he said, noting that global warming had already reduced the mountain glaciers by one third. Another third would certainly be lost, he stressed, which was why Bolivia opposed the agreements of Cancun.

Statements

JUAN PABLO DE LAIGLESIA (Spain) said that indigenous peoples suffered particularly strongly the effects of the prevalent economic and environmental models that were in place. In 2010, he recalled, the United Nations General Assembly and the Human Rights Council had explicitly recognized the right to safe water and sanitation. Those actions were the culmination of a process begun by Germany and Spain in Geneva, he added. In the indigenous context, the right to water must be considered in the context of Articles 25 and 32 of the Declaration on the Rights of Indigenous Peoples, which guaranteed their right to maintain traditional and spiritual relationships with waterways. Additionally, from a development perspective, access to potable water and sanitation drastically improved health outcomes, lowered mortality and improved quality of life.

It was important that development approaches did not lose a human rights perspective, he noted, and that they ensure accountability, non-discrimination and other critical principles. Progress towards the achievement of the water- and sanitation-related MDG had been slow. Therefore, the donor community must make additional efforts to incorporate water and sanitation in their development agenda, focusing on the most vulnerable and indigenous communities in particular. The Spanish Cooperation Fund for Water and Sanitation in Latin America and

the Caribbean, founded by Spain, had as its goal the attainment of the Millennium Development targets. Spain had allocated \$1.5 billion to that Fund, which gave priority to rural areas, as well as areas around urban centres that lacked access to safe water or sanitation. A credible policy for water rights could begin with awareness-raising, he stressed. In many cases, indigenous peoples had a culture of water management in which their whole communities took part and the international community could learn much from those traditional methods.

ESTEBAN PEREZ, of the Parlamento Indígena de América, said that, in Venezuela, indigenous peoples had made progress in enjoying their rights. The State recognized the right to water through the Venezuelan Water Law of 2 January 2007, which stipulated the Government’s obligation to ensure access to water. There were other norms that ensured the participation and leading role of indigenous peoples in the organization and implementation of water management. Together, those supported the conservation, sustainable use and recovery of water above and below ground. The water law also sought to control the effects of water to communities. As a result, indigenous peoples enjoyed authority over their waters. He further underlined the responsibility of the State and the challenge of societies to ensure the protection of the environment and ecosystems and stressed that the participation of indigenous peoples in designing water management programmes must be fostered. It was equally essential to ensure that indigenous peoples had the right to take a role in the comprehensive management of water. Laws must be established to counteract the threat of environmental devastation.

YANEISY ACOSTA HERNÁNDEZ(Cuba) said that, while the current discussion took place, more than 800 million people on earth were without access to potable water and almost a billion children did not have access to basic sanitation. Those numbers included many indigenous peoples, she stressed, especially as water had often been privatized for profit. The right to water affected all people, and there should be a joint solution in developing countries, with the support of the international community, to respect and promote that right. Cuba, since 1995, had achieved its Millennium Development Goals target on water and sanitation. As it reaffirmed the sovereign right of all States to regulate and manage their own waters, Cuba also stressed that Government policies should reflect the effective enjoyment of the right to water of all people. The United Nations must become the primary forum for debating and obtaining agreements on the right to water and she hoped that there would be much progress made in the enjoyment of that human right.

BARBARA SHAW, of the Global Indigenous Women’s Caucus, stressed that, to indigenous peoples, water was sacred. By virtue of spirituality and their reciprocal relationship with it, indigenous women played a key role in sustaining life and its biological and cultural diversity, as well as the diversity of their communities. Emphasizing the impact of water on the well-being of indigenous communities, she urgently asked the Forum to take a leading role in promoting and protecting indigenous peoples’ rights to water. A human rights framework must be used in protecting waterways, she stressed. She also urged the Forum to recommend to the Economic and Social Council to organize, in coordination with United Nations Environment



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Programme (UNEP), an expert meeting on water. The Forum should recommend that the Special Rapporteur carry out a study on water that went beyond access to drinking water. She called on the Forum to recommend that States recognize and finance projects that protect the traditional relationship of indigenous peoples to water and that further their right to water. It should also study how the practices of extractive industries impacted the right to water.

INEZ MARTINEZ (Ecuador) said that Ecuador recognized the right to water as a fundamental human right. The Ecuadorian Constitution granted that right and contained a special section on water, guaranteeing the “conservation, recovery and comprehensive management of water resources”. According to the country’s laws, the regulation of any activity that could affect the quality and quantity of water would be managed from an environmental perspective, and the privatization of water was prohibited. Its management could be publicly- or community-based, and its allocation was given first for human use, and then for irrigation, and then, as a lower priority, to other activities, such as production. In the latter case, the Government must approve the use of water. Those laws sought to ensure that people, communities and nations could benefit from the wealth of nature, she said.

Ecuador had been able to incorporate the vision of indigenous peoples into its laws, namely the principle that waters should not be looked at as “mere goods to be traded”. The Constitution also ensured that people and nations had the possibility of maintaining their identities, their sense of belonging, their traditions and social organization systems. Despite those “historic steps forward”, she said, much remained to be done so that traditional water practices could benefit future generations. She hoped that those rights would be recognized by all nations. Finally, Ecuador called upon the Governments of all countries to ensure that indigenous peoples had the right to have their waters, and their use of water, preserved according to their own world views.

KHULOT SUMSHOT, Asia Indigenous Peoples’ Caucus, noting that the indigenous peoples’ relationship to water was based on collective rights and communal management systems, said that such interconnectedness had been clearly emphasized in Article 25 of the Declaration on Indigenous Rights. But, in a world with entrenched neoliberal economic policies, water development had become an “aggression” towards water resources and threatened indigenous peoples’ existence. Waters were being depleted through the diversion and damming of water systems, mining and mineral extraction and aquifers used for industrial purposes. As such, he called on the Forum to conduct a study on indigenous peoples and water, including the impact of water resource use for industry. Governments, international financial institutions and national banks must respect indigenous rights to free, prior and informed consent for all development projects that diverted water resources. Governments also should convene multi-stakeholder bodies to review water policies, notably for water privatization and large dam development.

XAVIER ABREU (Mexico) said that the matter of the right to water and the indigenous “cosmovision” were very much in parallel. Mexico’s diversity of indigenous peoples gave rise to

a diverse vision of that cosmos, as well as to a firm recognition of the right to water. Mexico would soon adopt a law on consultation with indigenous peoples and communities, which could prevent many of the controversies that frequently arose. Among other things, it would allow for the creation of nature reserves and could protect the fishing rights of some indigenous groups. Underlining the need for clear decisions, he said they should be arrived at through consultations with indigenous peoples. As a spokesperson for a fund for indigenous peoples in Latin America, he supported Bolivia’s statement regarding financing. He also supported holding a continental preparatory session for the upcoming world conference.

RICKY TRAN INTREABUD, Global Indigenous Youth Caucus, recalling that water was a human right, supported the organization of the Indigenous World Forum on Water and Peace with the participation of indigenous youth. He recommended that the Forum, along with the World Health Organization (WHO) and United Nations Development Programme (UNDP), among others, allocate funds to promote safe hygiene practices to indigenous children. A high-level expert meeting with the United Nations Children’s Fund (UNICEF) and special rapporteur on water should be organized to establish indicators of well-being, while mechanisms to hold the World Bank legally and financially accountable for loans extended to States for building large dams and extracting minerals, among other things, must be created. Further, the Forum should recommend that the Economic and Social Council conduct an expert meeting on water allocation. It also should appoint special rapporteurs to examine, respectively, State implementation of the Declaration, and the privatization of water by multinational corporations.

EFRAIM GOMEZ(Sweden) said that it was clear that indigenous peoples had shown global leadership in the promotion and protection of the right to water and sanitation. The Swedish Government felt that those critical rights were derived from other related rights, including the human right to adequate health. Sweden was concerned about the depletion and contamination of water resources. In the context of sustainability, he stressed the importance of community-based and participatory water management. Much remained to be done at the regional and international levels, he said. Indigenous peoples should continue to play a critical role, among other things, as “depositories of knowledge” in that regard. Sweden looked forward to the recommendations from the Permanent Forum on the right to water and indigenous peoples.

TONYA GONNELLA FRICHER, Global Indigenous Peoples’ Caucus, explaining that water was sacred, said: “It is connected to spirit.” Today, the world was increasingly witnessing an attack on water — “aquicide” — from dams, extractive industrial developments and water privatization. As such, she called on the Forum to set “Water as a Human Right” for its 2014 or 2016 theme, and to recommend that the Economic and Social Council, in coordination with UNEP, call for an official United Nations experts meeting on water that included indigenous peoples’ regional representatives. That meeting would establish indicators of water well-being. Moreover, any policies of Governments, United Nations-related bodies or water corporations must observe and implement all the articles of the



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Indigenous Rights Declaration. Urging the Forum to work with all relevant United Nations bodies to provide full financial support for an Indigenous World Forum on Water and Peace, she pressed it also to reject the Rio+20 definition of “green economy” and instead create a collaborative definition that did not deprive indigenous peoples of their access and use of waterways.

PATRICK LOMBAIA, Pacific Caucus, honoured water as an ancestor, a manifestation of cosmic force, and both the creator and destroyer of life. Water was central to the spiritual and physical well-being of Pacific island peoples, but its health and resilience was under assault from both toxins and mismanagement by non-indigenous leadership. Indigenous peoples in Aotearoa struggled with the issue of meaningful participation in water policies and water allocation and sought State recognition of their water rights, notably in policies and legislation. Given that, all States should ensure that indigenous peoples’ cultural rights to water were protected and that their right to free, prior and informed consent in water management was respected. They also should incorporate the Declaration into all policies relating to indigenous cultural rights to water, and further, provide “priority funding” for indigenous water security initiatives, as many Pacific island communities lacked the necessary funds, tools and supplies.

MARIA CLEOFÉ SUMIRE DE CONDE, of the Parlamento Indígena de América, said she wanted to share the “cosmosvision” and the fight for water among the indigenous peoples of Peru and Latin America. With their ancestral communities, water was sacred to indigenous peoples. The question was not restricted to the right to healthy, safe water. Rather, water was like the blood of Mother Earth and that, too, was part of the “cosmosvision” of indigenous communities. Water was also life and her ancestors had worshipped all forms of water – from rain to clouds to underground water. For that reason, she was fighting against laws that would modify the hydro-resources of her country and region. Emphasizing that water was a fundamental human right and could not be a source of profit, she called for the decentralization of the management of water resources. Decisions must be made in local communities and the right to potable water must be guaranteed permanently, she said. Consultations must also be undertaken with indigenous peoples and Governments and corporations who sought to use water resources.

In that regard, she noted that Peru currently favoured corporate partners over its indigenous peoples. Water was traded. Access was restricted. Water sources were blocked. Indeed, indigenous communities could not access water in rivers and lakes when dams were built, or extractive industries were allowed to pollute the water sources. When indigenous peoples lifted their arms in protest against the legislation emanating from the executive branch, they were told that such protests were criminal. Thus, she appealed to the international community for support.

TARCILA RIVERA ZEA, of the Foro Internacional de Mujeres Indígenas y Enlace Continental de Mujeres Indígenas de los Américas, said that water was a basic human right and a central spiritual and cultural base for indigenous identities. But, their voices had been “hushed” during the global discourse on water. She called on the Permanent Forum to ask States to

develop institutional frameworks on the use of water, and — in line with International Labour Organization (ILO) Convention 169 and the Declaration on the Rights of Indigenous Peoples — to draft that legislation with the full participation of indigenous peoples. It was important to ensure that indigenous people were represented by their legitimate leaders in the creation of policies and programmes, she stressed. Among several proposals, she called upon the Permanent Forum to make recommendations to UN-Water, which should include networks of indigenous peoples in its work. The Secretariat of UN-Water should be part of the Inter-Agency Support Group on Indigenous Peoples’ Issues. Also, a specific chapter of the tri-annual “World Water Report” should deal with indigenous peoples. Further, a diagnosis should also be issued on the degree and source of pollution affecting indigenous waterways, allowing for claims to be made against those who polluted them.

Taking the floor to continue the statement, CALEEN SISK FRANCO said that nothing survived without water. Supplying access to water was not sufficient, as water also needed to flow freely, and salmon were needed in rivers and streams in order to clean them and distribute nutrients. Without salmon swimming in their waters, the climate would continue to change in ways that would be devastating to Mother Earth, she said. Indigenous peoples were being denied their human rights to access water without interruption. The denial of their tribal existence by the United States Government had left them without the basic protection they deserved. She called on the Permanent Forum to again transmit the recommendation from its third session, which asked Governments to carry out studies on how the diversion of rivers and the creation of dams, as well as mining and mineral extraction, energy development and other practices, would affect the lives of indigenous communities prior to conducting any of those actions. The Forum should again transmit the recommendation from its fourth session to the effect that “immediate steps” must be taken, within the framework of the Commission on Sustainable Development, to protect water from privatization and from bilateral and multilateral agreements that affected the integrity of waters and impoverished communities, particularly indigenous women. She also urged Member States to implement the findings of the Special Rapporteur on the human right to water and sanitation.

WILTON LITTLECHILD, speaking on behalf of Gregory P. McIvor of the Southern Chiefs’ Organization, said that the first nations people of Southern Manitoba, Canada, had maintained strong spiritual and cultural relationships with their lands, waters, forests and other natural resources. Water and forests continued to be an important industry for first nation people, although they continued to face significant barriers in both sectors. Those barriers had included, but were not limited to, the enactment of provincial and federal legislation and regulations that further confined and prohibited active participation of southern Manitoba first nations people in investing in the local economy. Legislative control limited first nations’ access, traditional uses, practice and exercise of treaty rights and created severe restrictions to economic development.

He recommended that the Forum work closely with the secretariat of the Convention on Biological Diversity to advance the full and effective participation of indigenous peoples in implementing that Convention’s forestry provision. Inviting



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Special Rapporteur James Anaya to visit southern Manitoba, he appealed to Mr. Anaya to reinforce to the Governments of Manitoba and Canada that international law recognized the rights of indigenous peoples to: self-determination; ownership, control and management of their traditional territories, lands and resources; and exercise their customary law, among other things. The Forum should further recommend that the expert mechanism on the rights of indigenous peoples conduct an investigation and develop recommendations regarding the rights of the indigenous peoples of southern Manitoba, as well as their concerns regarding adverse effects. He urged the Forum to strongly support the recommendations of the World Commission on Dams on water and energy development.

STEVEN ROSS, speaking on behalf of the [Indigenous Peoples of Australia](#), said that water had been stolen, polluted and commodified since the colonization of Australia. Indigenous peoples were kept out of decision-making and discussions, and actions were taken without the free, prior and informed consent of the original owners of the land. In the Murray Darling Basin in south-east Australia, which provided much food and other resources and supported some 2 million people — including 15 per cent of the country's indigenous population — water inflows had become extremely low. Indigenous peoples had the right to decide on its use, to hold water licenses, to trade, and use water for cultural and economic purposes. Across many parts of Australia, many indigenous people did not have access to potable water, further exacerbating inequalities.

The extractive industries in the country, which had very little accountability, should enter into free, prior and informed consent negotiations with indigenous communities, he said. The right of indigenous peoples to fish and use natural resources needed to be protected. Environmental safeguards were "wanting" in Australia, he said, as evidenced by the existence of in-situ leaching, a mining practice that was outlawed elsewhere. Among recommendations, he said that States needed to recognize that water had its own rights, and fully include indigenous peoples in all processes around water management. He also urged all States to incorporate the principles of the Declaration into policies regarding water.

ANDREA CARMEN, making a joint statement on behalf of the [International Indian Treaty Council](#) and several other organizations, said the sacredness of water was the foundation of life, health, cultural practices and survival. Yet, the imposition of non-sustainable projects by Governments and industries resulted in contamination, diversion and depletion of clean natural water resources, as well as desertification and climate change. State policies and legal systems that favoured corporate or industrial use of water over subsistence and ceremonial use by indigenous peoples — often in violation of treaties, agreements and constructive arrangements — negatively impacted on their right to water. Those policies and practices resulted in a wide range of human rights violations, including their rights to: permanent sovereignty over land and natural resources; free, prior and informed consent; self-determination; religious freedom; and the right not to be deprived of their own means of subsistence.

Noting that the United Nations Special Rapporteur on the right to water and sanitation recently visited the United States

for the first time, she expressed hope that Ms. de Albuquerque's conclusion and final report would make an important contribution to that theme. She further noted that information from indigenous peoples from Canada, the United States, Guatemala and Mexico, regarding the impact of mineral extraction and the use of banned pesticides by Canadian and American companies, resulted in a landmark recommendation by the Committee on the Elimination of Racial Discrimination, which agreed that those States, and by implication other States parties to the Convention, were responsible for monitoring the human rights compliance of corporations that they licensed whose activities impacted on the lands, waters and rights of indigenous peoples. It further recommended the implementation of administrative and legislative measures by the United States to prevent such violations. For its part, the Forum should implement a process to assess, evaluate and, as needed, propose measures for States to monitor the compliance of corporations carrying out activities that affected the right of indigenous peoples to water. It must specifically address free, prior and informed consent and the treaty right to water, she said.

GEOFFREY NETTLETON, speaking on behalf of the [Indigenous Peoples Link](#) and other organizations, focused his statement on problems caused by extractive industries around the world. In the Philippines, for example, indigenous farmers lacked water for their crops, while large extractive and mining companies used massive amounts of water. Large companies were still dumping toxic waste directly into water sources, and contributed to the acidification of water that would last hundreds of years. Additionally, throughout the current session, the Forum had heard reports of serious human rights violations by those same companies. "Best practice is not the issue — worst practice, including restitution for victims, is the issue," he stressed.

The Permanent Forum needed to urgently advise the Human Rights Council to follow up on the work of the Special Representative on business and human rights, John Ruggie, and to create a forum for indigenous peoples to voice their related concerns. He recommended that accessible and accurate data be made widely available on water and water rights. Food security must be given priority over mining in policies around the world. The Permanent Forum should address the use and misuse of water resources by companies, and should raise their standards for water protection. He also stressed that recommendations of the Forum should be submitted to the Rio+20 Conference, in order to ensure that the view of indigenous peoples were adequately represented in that forum.

DARLEEN SANDERSON, of the [Indigenous World Forum on Water and Peace](#), supported the establishment of water as a theme for the Forum's thirteenth session in 2014. She called for an Indigenous World Forum on Water and Peace to be held, noting that UNICEF and the United Nations Educational, Scientific and Cultural Organization (UNESCO) had expressed support for such an event. For its part, her organization was working internationally towards such a forum and intended to bring together a diverse indigenous knowledge network to develop innovative water solutions, seek new opportunities for positive adaptation and indigenous resiliency, as well as applications for recognition of indigenous peoples' right to water. She endorsed the need to give voice to the



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indigenous perspective of guardianship of all sources of water. The Western view of water privatization was unsustainable, she stressed. Further, decision-making in water policies developed by indigenous peoples must always be informed by traditional laws and their elders. She went on to stress that the right to free, prior and informed consent must be recognized in all situations where water policy decisions affected indigenous peoples. In addition, the Declaration on the Rights of Indigenous Peoples must be implemented at all levels of Government.

MOHAMED AL KURSHAN, of the Jerusalem Bedouin Cooperative Committee and speaking on behalf of the Bedouin refugee community in the West Bank, said that his community had been displaced, and Bedouins in the West Bank were now an indigenous group suffering under Israeli occupation. Bedouins traditionally relied on raising cattle and livestock for their livelihoods, he stressed, but had since 1948 been deprived of access to farmland and water sources, many of which had become military areas or illegal Israeli settlements. The Bedouin refugees were now forced to buy their water in tankers, as they were also prohibited from digging wells. The situation of the Bedouin people in the West Bank was degenerating and they had come to depend on emergency humanitarian aid. "There is a forcible, systematic effort to destroy the Bedouin culture," he stressed. Among other recommendations, he suggested that, until a political solution was found to the Israeli-Palestinian conflict, Bedouins should be recognized and protected as a displaced population, with their basic human rights — including the right to water — respected. He also asked the Permanent Forum to send a representative to the Bedouin community in the West Bank and report to the Forum on that visit.

TONY JAMES, Vice-President of Amerindian Peoples Association of Guyana, said that the waters of all nine indigenous peoples in Guyana were at risk from the increasing commercialization of their mineral, hydrocarbon and forest resources. They were put at further risk as the realization grew of the value of their land to the low-carbon economy and climate-change mitigation. In Guyana's interior, an internationally supported Low-Carbon Development Strategy and projects under reducing emissions from deforestation and forest degradation (REDD+) were paving the way for massive investments in hydroelectric generation that could flood parts of the territories of indigenous peoples and change the flow of the rivers sustaining their communities. Large-scale agriculture, which was often more water intensive than traditional farming, was similarly being promoted under the Low-Carbon Development Strategies. While much was being foretold about the possible benefits of those projects, questions about their risks had remained largely unanswered. There should, he said, be doubt regarding the urgent need for indigenous rights to be protected and respected, particularly the right to free, prior and informed consent.

To that end, he asked the Forum to work with States to ensure prompt legal recognition of the rights of indigenous peoples to own, manage and control their ancestral territories in accordance with international law; to assist States in revising national legislation to fully incorporate indigenous rights and strengthen their monitoring capacities; to ensure that every indigenous child had a copy of the Declaration in their own language; to work with indigenous peoples to make sure that the

true value for their resources was known as a requirement for equitable benefit sharing; and investigate fully the possible impacts of REDD+ and other low-carbon or green economic strategies, among other things.

EDWARD JOHN, a member of the Permanent Forum from Canada, said that water was a human right, as contained in various international treaties, and that right was legally binding — an important point to keep in mind. It was, therefore, legitimate for indigenous peoples to seek redress for violations of that right. Focusing his statement on rights and responsibilities, he drew the attention of the Forum to Article 25 of the Declaration on the Rights of Indigenous Peoples, the only provision in that document that discussed responsibilities. According to the Declaration, indigenous peoples had the right to "maintain and strengthen their spiritual relationship" with water sources, as well as uphold their responsibilities to future generations in that regard. The latter was a crucial and fundamental tenet to indigenous peoples. While the word "resources" commodified water, it was used in the Declaration to encapsulate the concept of water, land, animals and natural elements that were relied upon by indigenous communities. Moreover, in the teachings of indigenous elders, the responsibility to protect nature was central. That responsibility was also integral to the Forum's current discussion.

Invited to make concluding observations, Ms. DE ALBUQUERQUE urged participants to use the United Nations mechanisms to claim their rights. She underlined the broad spectrum of avenues available in that respect, including the treaty monitoring bodies, the Universal Periodic Review, and the mandates of the other special rapporteurs. It was clear that the world was starting to think about what would happen after 2015 and it was time to start work on the post-2015 global development agenda. **She stressed that it was important for indigenous peoples to be involved and to demand access to water and sanitation. In that regard, she said their call must be for universal access, not just a 50 per cent reduction, urging to them to start mobilizing now in order to achieve that goal.**

Noting that his Government was comprised of indigenous peoples and organizations, Mr. SOLÓN said his colleague Pedro Calderón Rosas, from the Ejecutivo de la Confederación Sindical de Bolivia, would make a closing comment.

Mr. CALDERÓN said that today the indigenous peoples of Bolivia remembered the racial discrimination to which they had been subjected. They had been treated as animals, because they called for their indigenous rights. He stressed that the privatization of water in Bolivia had had an impact on the rates for those who used that system in both the urban and rural settings. It had also affected access to water by indigenous peoples, as well as the local systems for water management. It, thus, represented a breakdown of cultural values. Indigenous rights were being trampled and the neoliberal system was having its way, he said. Briefly, Mr. XAVIER reiterated the need for free, prior and informed consent. He also recognized the issues raised by the various youth participants.



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Informative U-Tube videos on Water and Sanitation

<http://www.youtube.com/watch?v=Se12y9hSOM0>

Bottled water You tube video

<http://www.youtube.com/watch?v=pfq000AF1i8&NR=1>

Story of Cosmetics

<http://www.youtube.com/watch?v=9z14I51ISwg&feature=related>

Water treatment = simple process video

<http://www.youtube.com/watch?v=gxgpK1EUZns&NR=1>

Sewage treatment video

<http://www.youtube.com/watch?v=AG7U26V1gPQ&NR=1>

Sewage treatment Melbourne video

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India WASH Forum is a registered Indian Trust since 2008 with Trustees from all over India. It is affiliated to the WSSCC Geneva and is a coalition of Indian organizations and individuals working on water, sanitation and hygiene.

A unique feature of IWF is its non-hierarchical set up. The Trustees of India WASH Forum are represented in their individual capacity and do not represent the organisations they are associated with.

The agenda and activities that India WASH Forum are determined at the initiative of the Trustees and support from organisations and individuals.

We receive a very small operations grant from WSSCC and undertake learning events, engagement and support with other organisations and initiatives and bring out this bi monthly News & Policy Update.

Since 2010, India WASH Forum is actively engaged in the Global Sanitation Fund and current is the host of the Global Sanitation Fund in India, playing the role of the Chair and Convener for the National Level Programme Coordination Mechanism of the Fund in India.

Our Charter includes the following commitments;

- ❑ **Promoting knowledge generation** through research and documentation which is linked to and supported grassroots action in the water-sanitation-hygiene sectors. Special emphasis is given to **sector-specific and cross-cutting thematic learnings**.
- ❑ **Supporting field-based NGOs and networks in their technical and programmatic work**. The IWF would also consistently highlight gender and pro-poor considerations, and provide a national platform for interest groups working in the sector to come together.
- ❑ **Undertaking policy advocacy and influence** work through
 - Monitoring and evaluations
 - Media advocacy and campaigns, and
 - Fact finding missions
- ❑ **Undertaking lobbying and networking to promote common objectives** in the sector.

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