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HUMAN RIGHTS COUNCIL  
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### **PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT**

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

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

[18 February 2008]

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

## THE RIGHT TO WATER

### Introduction

1. The right to water is a fundamental component of the right to food. Food and water are essential elements that all human beings must have access to in order to survive. The right to food includes access to safe drinking water, as water, like food, is essential for the survival of human beings and indispensable to agriculture, a fundamental element of the right to food.

2. The report submitted by the Special Rapporteur on the right to food to the Commission on Human Rights on January, 10 2003, states water is essential for life and emphasizes the fundamental importance of access to “sufficient, safe, and acceptable” drinking water. In recognizing the importance of drinking water to nutrition, the report highlights how the right to water is inextricably related to the right to food and requires that “priority should ... be given the water resources required to prevent starvation and disease.”<sup>1</sup>

3. Human Rights Advocates welcomes the High Commissioner’s Report<sup>2</sup> on the human rights obligation related to equitable access to water and submits this statement to emphasize the need to recognize the right to water as a fundamental human right with a strong connection to the right to food; the need to finalize and adopt a set of guidelines for the realization of the right to drinking water supply and sanitation; and the need of governments to move towards the full realization of the right to water, including the prevention of third party interference with the enjoyment of that right to water.

4. Water is a limited natural resource and the human right to water is a prerequisite for the realization of other human rights, such as the right to the highest attainable standard of health (Article 12, Paragraph 1 of the International Covenant on Economic, Social and Cultural Rights) and the right to adequate housing and adequate food (Article 11, Paragraph 1 of the ICESCR). Several international conventions, such as the Convention on the Elimination of All Forms of Discrimination Against Women (Article 14, Paragraph 2) and the Convention of the Rights of the Child (Article 24, Paragraph 2), have explicitly recognized the right to water as a fundamental human right. The right must be recognized by all international bodies in order to hold State parties accountable for violations of the right. Although the Committee on Economic, Social, and Cultural Rights previously recognized water as a fundamental human right in General Comment No. 15 (2002)<sup>3</sup>, many governments have not implemented their obligations to provide equitable access to clean water supplies. Pursuant to General Comment No. 15, the right to water includes the obligation to guarantee that the right is enjoyed by all without discrimination and in sufficient quality and quantity.

5. The Council’s recognition of the right to water and its movement to develop and adopt standards on government and private sector obligations are urgently needed to ensure that global community address this growing crisis. HRA urges the Council to prioritize drinking water (including cooking and other household uses) as well as other livelihood uses to sustain

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<sup>1</sup> Report submitted by the Special Rapporteur on the right to food, Jean Ziegler, in accordance with Commission on Human Rights resolution 2002/25, at pg 44, U.N. Doc E/CN.4/2003/54 ( 10 January 2003)

<sup>2</sup> Report of the United Nations High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments, U.N. Doc A/HRC/6/3 (16 August 2007)

<sup>3</sup> UN Committee on Economic, Social and Cultural Rights, General Comment No. 15, The Right to Water, U.N. Doc. E/C.12/2002/11 (2002) hereafter General Comment No. 15.

life and health. The obligation to protect requires State parties to prevent third party interference (including private corporations) with the enjoyment of the right to water. To prevent an abuse of this obligation, State parties must adopt an effective regulatory system which includes independent monitoring, legitimate public participation, and penalties for noncompliance.

#### Responsibility Of The State In Ensuring The Right To Water

6. In many instances, the State no longer actively takes on the duty of providing water to its citizens, resorting to a mere regulator in the process. The Council should emphasize that the State is ultimately responsible and must be held fully accountable for ensuring the right to water for its citizens. The government must oversee private providers, private third parties and local decision-making bodies to ensure the right to water is protected.

7. We urge that every nation must recognize the right to water and ensure implementation that will prevent discrimination and promote accessibility for its people. Several countries have included provisions in their national constitutions defining water as a public good and legislating for fair and equitable access, thereby creating legal obligations to protect and ensure citizens rights to water. Examples include Ethiopia, Gambia, Uganda, South Africa, Guatemala, Panama, and Uruguay. Recently, the French senate adopted an amendment to incorporate the right to water. While these advances are significant and necessary, the broader recognition of the State's duty in ensuring the right to water must continue around the world.

#### Responsibilities Of Private Providers and Corporations In Ensuring The Right To Water

8. Where private providers are involved, they must take into account the right to water in pursuing their activities and should be held co-responsible for respecting, protecting and fulfilling the right to water. For example, Bolivia's water privatization in the cities of Cochabamba and El Alto resulted in water being inaccessible to its citizens. Providers charged monstrous connection charges and water prices increased by 200% and higher leaving its citizens, who live on less than \$1 a day, without access to water.<sup>4</sup>

9. In addition, States must be responsible when ensuring privatization of water services and recognize the right to water when negotiating contracts. For example, in Manila, privatization of the water system was contracted with Maynilad, a subsidiary of Suez. Tariffs were increased by 300-700% and after being denied to further raise rates, Maynilad pulled out of its contract and sued the government for its losses.<sup>5</sup> The International Court of Arbitrations on November 7, 2003, recognized Maynilad's negligence but ruled that per the contractual agreement, Maynilad would continue to manage the water service.<sup>6</sup> Due to the failure of the government to contract responsibly and ensure protective provisions for the right to water, the citizens were left with a company that clearly was incapable of managing the water service.

10. Governments need to develop global standards to hold corporations accountable for all human rights violations, including the right to water. The adoption of concrete standards for the realization of the right to drinking water and sanitation should explicitly demand State parties

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<sup>4</sup> *Bechtel v. Bolivia*, The Democracy Center, <http://www.democracyctr.org/bechtel/bechtel-vs-bolivia.html>, 1-2, 3

<sup>5</sup> *Water Privatization Fiascos: Broken Promises and Social Turmoil*, The Public Citizen, [www.citizen.org/documents/privitizationfiascos.pdf](http://www.citizen.org/documents/privitizationfiascos.pdf)

<sup>6</sup> *Id.*

to ensure that corporations do not interfere with the enjoyment of the right to water and sanitation or any other human rights. Standards can ensure that corporations violating human rights are subject to the appropriate consequence.

11. Communities across India living around Coca-Cola's bottling plants are experiencing severe water shortages directly as a result of Coca-Cola's massive extraction of water from the common groundwater resource. As a result, a bottling plant in Kerala has been ordered shut since 2003 by the High Court citing the plant for creating severe water shortages and pollution leading to severe hardships for the community.<sup>7</sup> However, bottling plants in Rajasthan and Uttar Pradesh continue to create water shortages and discharge waste into surrounding areas, where farming is the main livelihood. In addition, studies have found that Coca-Cola products in India contain dangerously high levels of pesticides, resulting seven states in India to impose partial or full bans on the sale of Coca-Cola.<sup>8</sup>

12. The bottled water industry has resulted in the withdrawal of large quantities of water from springs and aquifers leading to depletion of vital water supplies in many communities worldwide including the United States. In 2003, it is estimated that Nestlé Waters withdrew a total of 1,862,486,080 gallons for its bottle water production in the US alone.<sup>9</sup> In North America, bottled water companies like Nestlé Waters have been able to secure control over underground aquifers and streams by taking advantage of the "rule of capture" regulatory regime. Resistance has occurred in Florida, Wisconsin and Minnesota, where citizens claim the bottling industry is tapping and pumping excessive amounts of groundwater.

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

#### Recommendations

14. Human Rights Advocates urges:

- a. The Council to recognize the fundamental human right to water and its relationship to other rights including the right to food.
- b. The Council to continue the process of establishing a mechanism for develop guidelines to assist governments in developing global standards to ensure fulfillment of the right to water.
- c. States to promote implementation of the right to water as iterated by the ICESCR and ensure the right to water for its citizens.
- d. Both the Council and States to promote global standards of corporate accountability to ensure that the right to water is protected.

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<sup>7</sup> *Campaign to Hold Coca-Cola Accountable*, India Resource Center  
<http://www.indiaresource.org/campaigns/coke/>

<sup>8</sup> *Id.*

<sup>9</sup> *Nestlé's Water Wars: The Experience of North America*, Polaris Institute,  
[http://www.multiwatch.ch/fileadmin/BeitraegePresseAnhoerung/Wasserworkshop\\_Clark.pdf](http://www.multiwatch.ch/fileadmin/BeitraegePresseAnhoerung/Wasserworkshop_Clark.pdf)