

UN Human Rights Council moves forward on the right to water and sanitation

On 28 February 2008, the UN Human Rights Council, the primary United Nations body for human rights issues adopted by consensus a resolution on 'Human Rights and access to safe drinking water and sanitation.' Through this resolution, the Council established a new 'Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation.' The Independent Expert will work for 3 years on two primary tasks. First, to identify, promote and exchange on best practices related to access to safe drinking water and sanitation, and, in that regard, to prepare a compendium of best practices; and second, to carry out further clarification of the content of human rights obligations, including non-discrimination obligations, in relation to access to safe drinking water and sanitation.

The Human Rights Council also made an important legal statement: "*Emphasizing* that international human rights law instruments, including the Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Right of the Child, entail obligations in relation to access to safe drinking water and sanitation." This statement clearly indicates that all governments are bound by human rights obligations to ensure access to safe drinking water and sanitation for all. The resolution is available at www.cohre.org/water (>New Developments) or from the web-site of the [Office of the High Commissioner for Human rights](http://www.unhcr.org/refugees/ohchr/).

The resolution was not as strong as it might have been, as it did not explicitly refer to the 'right to water and sanitation.' This is more relevant as a political rather than legal matter, since human rights obligations of governments to ensure access to water and sanitation imply a corresponding right of individuals to water and sanitation. In informal sessions on this resolution attended by government and NGOs, Canada and the United States requested removal of explicit references to the right to water and sanitation. The United Kingdom expressed its support for the right to water, but stated that it did not recognise the right to sanitation. A number of other countries expressed concerns with the particular formulation used to describe the right, but did not request its removal. Given that only one country – Canada - has thus far voted against references to the right to water and sanitation, it is likely that a resolution containing explicit references to the right to water and sanitation would have been adopted by the Council with a strong majority in favour. However, in order to maintain consensus, the sponsors of the resolution decided not to include references to the 'right to water and sanitation' in the resolution.

It is unfortunate that a small number of States are attempting to move away from previous statements in which they had recognised access to water and sanitation as a right. At two UN world conferences, the International Conference on Population and Development, Cairo, 1994 (in which 177 States participated) and the Second United Nations Conference on Human Settlements (Habitat II), Istanbul, 1996 (in which 171 States participated), the community of States – including Canada, the United States of America, the United Kingdom - unanimously adopted international declarations which stated that the right to an adequate standard of living includes water and sanitation, in addition to food, clothing and housing. The Mar del Plata Declaration of the UN Water Conference, 1977 also recognised the right to water. The 118 members of the Non-Aligned Movement and the 43 members of the Council of the Europe recognised the right to water respectively in 2006 and 2001. The Asia-Pacific Water Forum, composed of 37 Asian countries recognised the right to drinking water and sanitation in 2007. (For more information see the COHRE position paper: *'The Human Right to Water and Sanitation:*

Legal basis, Practical Rationale and Definition' available at www.cohre.org/water > Resources and Articles).

Although the Council did not proceed as far as it could have, its creation of an Independent Expert mechanism and clear recognition of human rights obligations relating to water and sanitation are important breakthroughs. The resolution firmly places the right to water and sanitation on the Council agenda. The sponsors and the more than 40 co-sponsors of the resolution should be congratulated for their contributions to the success of this important initiative.

The Council will address this topic again at its 10th session in 2009. Several human rights and development NGOs will be advocating for the UN Human Rights Council to explicitly refer to the 'right to water and sanitation' as a right contained within the International Covenant on Economic, Social and Cultural Rights. It will be necessary to engage with governments in order to allay their concerns about the implications of the right to water and sanitation (see for example, a response to the Canadian government's position on the right to water and sanitation, available at www.cohre.org/water > New Developments).

COHRE and the Ecumenical Water Network will also establish a distribution list to keep interested NGOs, academics and national human rights institutions informed of progress on this Council initiative. Messages will be limited to once or twice a month, and weekly during the Human Rights Council sessions. If you would like to be added to this distribution list, please send a message to Maïke Gorsboth (mgo@wcc-coe.org), indicating your name, organisation and country.