

## THE RIGHT TO WATER AT THE 4TH WORLD WATER FORUM IN MEXICO

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*Abstract: This report seeks to describe how the 4th World Water Forum dealt with the right to water, a topic hotly debated but not referred to in the Ministerial Declaration. However, all other groups represented in Mexico expressed themselves in favour of such a fundamental right.*

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Never has the right to water received as much coverage at an international meeting as was the case at the 4th World Water Forum convened by the World Water Council. In his inaugural speech, President Vicente Fox of Mexico stated that “water is above all a human right which no one can renounce” and that “it is our moral and political obligation to ensure that nobody is denied his right to this vital liquid”. Then the President of the World Water Council, Mr. Loïc Fauchon stated that:

*“The right to water is an indispensable element of human dignity”* and he added:

*“Let us etch in the constitution of each state, let us engrave this right in the facade of each national and municipal place, and let us write this right in our children’s notebook in every school”.*

The Mexican Environment Secretary, Mr José Luis Luege Tamargo, stated that water is a fundamental right and a key to development.

During one full week in Mexico last March, every day there were official meetings or informal seminars on the right to water, to discuss its meaning and its consequences. Delegates in official sessions at the Forum or in parallel sessions during side events, elected representatives in a parallel forum held separately and activists in the counter-forum they organized elsewhere within the city exchanged views on this topic, which is attracting growing interest and support.

The French Government took a strong position in favour of the right to water. Mme

Nelly Olin, Minister for Ecology, stated that “the right to water is recognized since many years as a fundamental right in international agreements. The issue is now to make it an effective right, i.e. to improve access to water for millions of people”.<sup>1</sup>

France issued a pamphlet<sup>2</sup> describing how to make the right to water a more effective right. It also distributed the French Water Academy report on the “Right to water, a right for all citizens”.<sup>3</sup> The interesting feature of these two policy documents is that they reflect the integrated views of all French stakeholders on the right to water (official circles, water multinationals, professional societies and NGOs) and not an independent view. In previous years, France did not express itself as clearly except when in 2003 President Chirac suggested that “access to water be recognized as a fundamental right” (Kyoto, 2003).

Other countries such as Belgium and South Africa explained at the Forum how they implemented the right to water at national level. Belgium announced the setting up of a new social fund for water in developing countries.

In Mexico, the European Regional Coordinating Committee reported<sup>4</sup> on the European “Guidelines for good water governance providing access to safe drinking water and sanitation” in which it is stated that the “duty of to implement the right to access to essential services in drinking water and sanitation for all” is allocated to public authorities. In December 2005, the Council of European Municipalities and Regions adopted a declaration in which it is stated that local and regional governments” should play an “essential role in most European countries in the implementation of the right to access drinking water and satisfactory sanitation” “in sufficient quantity and quality, and at reasonable price in order to fulfill these most fundamental needs”.<sup>5</sup>

The Parliamentary Assembly of the Council of Europe adopted a new Recommendation in support of the right to water in January 2006.<sup>6</sup> The European Parliament

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<sup>1</sup> Interview of 1st March 2006.

<sup>2</sup> Partenariat français : L'accès à l'eau et à l'assainissement pour tous, N°5 (2006), [www.eau-international-france.fr/mexico](http://www.eau-international-france.fr/mexico)

<sup>3</sup> Academie de l'eau : The right to water, a right for all citizens”, 2006 ([www.academie-eau.org](http://www.academie-eau.org)).

<sup>4</sup> European Regional Coordinating Committee. European Annex to the 4th World Water Forum Ministerial Declaration. Implementation in Europe of International Water and sanitation Policies. Reprinted in Europe regional Document, Mexico, 2006.

<sup>5</sup> Guidelines for good water governance providing access to safe drinking water and sanitation (Annexe E of “The European Union Water Initiative: Final Report of the Financial Component”, October 2003, oct. 2003), [http://www.euwi.net/file\\_upload/Flo\\_tmpphpSuDj2z.pdf](http://www.euwi.net/file_upload/Flo_tmpphpSuDj2z.pdf). CEMR Dec. 2005, [http://afccre.ecritel.net/cms\\_file.asp?id=802](http://afccre.ecritel.net/cms_file.asp?id=802)  
Declaration of the European local and regional governments, adopted in December. 2005 by the The Council of European Municipalities and Regions. See also European regional document: “Europe Water and the World” issued for the Mexico Forum (Chapter 6, Access for all)

<sup>6</sup> Rec. Europe's contribution to improving water management, Jan. 2006 (Rec. 1731).

in March 2006 asked the EU to request inclusion of the right to water in the final declaration of the World Water Forum.<sup>7</sup> But Member State officials do not necessarily follow a mandate from the European Parliament.

Latin American countries such as Argentina, Bolivia, Uruguay and Venezuela, were strongly in favour of the right to water often in the context of a change of water service management system. In Uruguay, the Constitution was even modified to incorporate the right to water in 2004. For Brazil, the right to water is an essential right rather than a fundamental right.

On the other hand, delegates from countries such as the United States or Japan did not discuss the issue of the right to water. Nevertheless, it is worth mentioning that in 2005 the US Congress passed a law in order “to provide affordable and equitable access to safe water and sanitation in developing countries.” (Senator Paul Simon Water for the Poor Act of 2005).

### **The Ministerial Declaration**

The Ministerial Declaration of Mexico written in advance of the meeting did not serve much purpose except to recall past commitments and did not stand the comparison with other declarations adopted at the same time in Mexico. Many governments would have liked to include in it a mention of the right to water but this was stubbornly refused and not even a comma could be changed to a text prepared on the basis of consensus and without any formal voting as is the case in the UN General Assembly. Consequently the Ministerial Declaration made no reference to the right to water although the issue was hotly debated.

Four countries (Bolivia, Cuba, Uruguay and Venezuela<sup>8</sup>) were authorized to provide their views as part of the outcomes of the Forum, but not as an annex to the Ministerial

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<sup>7</sup> European Parliament resolution on the Fourth World Water Forum in Mexico City (16-22 March 2006) The European Parliament ,

1. **Declares** that water is a shared resource of mankind and that, as such, access to water constitutes a fundamental human right; calls for all necessary efforts to be made to guarantee access to water for the most deprived populations by 2015;

2. **Calls** for the Commission to represent the European Union at the Fourth World Water Forum with a mandate to seek recognition in the final ministerial declaration that access to drinking water is a fundamental human right; calls, in this context, for the European Union and its Member States to propose, under the auspices of the United Nations, the drafting of an international treaty on water and the management of water resources which recognises the right to access to drinking water;

9. **Calls** for local authorities in the European Union to be encouraged to allocate a proportion of the charges paid by users for the supply of water and sanitation services to decentralised cooperation measures and for the Union to set aside the necessary resources to enable it to support and back up such measures, in particular with regard to coordinating data and exploiting and disseminating results; (adopted on 15th March 2006).

<sup>8</sup> The position of Venezuela was presented by the Secretary of Water to the Minister for the Environment, Mr. Ernesto Paiva, who stated that water resources are an essential right of the people.

Declaration.<sup>9</sup> The statement was : *“Access to water with quality, quantity and equity, constitutes a fundamental human right. The States with participation of the communities shall make efforts at all levels to make this right effective for their inhabitants, within their respective countries.”*(Our translation).

In addition there was a reference to the promised support from the international community : *“We exhort the international community and multilateral organisations to comply with the commitments repeatedly made to support efforts of countries in order to guarantee access to water and sanitation”*. As a matter of fact, these countries run the risk of not obtaining any outside financial support to develop their water services.

Mr. Abel Mamani, the new Bolivian Minister of Water threatened at one stage not to sign the declaration because it did not include any reference to the right to water. In addition he was seeking to broaden the debate to the issue of water and trade agreements.<sup>10</sup>

Spain, France, Germany and other EU States made proposals to include a reference to water as a “fundamental right” in a EU statement annexed to the ministerial declaration. Ultimately this was done in the minutes of the ministerial meeting but did not include a reference to a “fundamental right”, a concept that some EU States do not agree with.

Austria on behalf of the European Union and Switzerland finally made the following agreed statement:

*“We want to address the discussions concerning the right to access to water and sanitation. The EU considers that water is a primary human need and that water and sanitation are basic social services as mentioned in the resolution of the EU Development Council adopted on 30*

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<sup>9</sup> “Access to water with quality, quantity and equity, constitutes a fundamental human right. The States, with the participation of the communities, shall make efforts at all levels to guarantee this right to their citizens, within their respective countries. Thus, we agree to continue making all efforts within the Commission on Sustainable Development of the United Nations and other international fora according to their mandates, to recognize and make this right effective. We declare our profound concern regarding the possible negative impacts that international instruments -- such as the free trade and investment agreements -- can have on water resources, and reaffirm the sovereign right of every country to regulate water and all its uses and services”.

<sup>10</sup> The Bolivian Government asked officially the President of the Committee of Trade Negotiations for the WTO, to “Suspend any negotiations which involve drinking water in GATS “and to “Withdraw the sector of drinking water from the 155 services which have been categorized by the WTO” . According to Bolivia, “Once water is included in Free Trade Agreements, such as those negotiated under the WTO, it becomes increasingly hard to guarantee that water is managed publicly as the agreements on services and investments give multinationals rights to bid, compete and also protect any investments in the water sector. Mr. Abel Mamani said: "Many speakers at the World Water Forum have said that the Forum is not about promoting privatization, however including water in free trade agreements make the shift towards privatization and the treatment of water as a commodity inevitable. That is why we have taken the step to call on the WTO to withdraw drinking water from all free trade agreements. Water must be treated as a human right not another tradeable commodity for profit."

May 2002.<sup>11</sup> *The EU emphasizes that public authorities must take adequate measures to make this right effective and affordable.*”

Such an obligation on public authorities could imply that individuals have a corresponding right. This statement of the EU at Council level states unequivocally that drinking water should be affordable, a concept that is closely linked to the existence of an individual right.<sup>12</sup>

The Ministerial Declaration included a reference to the pro-poor approach which is needed to improve access to water. The statement is :

*“Governments have the primary role in promoting improved access to safe drinking water, basic sanitation, through improved governance at all levels and appropriate enabling environments and regulatory frameworks, adopting a pro-poor approach” (Ministerial declaration).*

### **The Mayors Declaration**

In Mexico there were more mayors and elected representatives than ministers and heads of delegation<sup>13</sup> and they took upon themselves to discuss the right to water and to adopt their own declaration which goes far beyond the Ministerial Declaration .This is very significant because water is largely the responsibility of mayors.

The Declaration on water by mayors and local elected representatives (Mexico, 2006) states among others:

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<sup>11</sup> The European Development Council endorsed a common resolution on Water Management in Developing Countries (May 2002 ) in which it is stated:  
“Water is a primary human need and water supply and sanitation are basic social services. It is a fundamental economic and environmental resource, and is thus a key issue for poverty reduction, sustainable development and the achievement of the Millennium Development Goal on Water (MDG).” “Critical areas to which attention should be primarily devoted are : - Ensuring a supply to every human being, especially the poorest and with a clear focus on the needs of women and children, of sufficient drinking water of good quality and adequate sanitation and hygiene, with the general objective of reducing poverty and improving people's health, quality of life and livelihood opportunities.” The European Parliament has consistently been in favour of the right to water (see Resolution, 4 Sept. 2003).

<sup>12</sup> The European Annex to the Ministerial Declaration contains the following paragraph which emphasizes the issue of affordability. “In order that everybody can enjoy satisfactory access to water and sanitation services and can contribute to their cost in an affordable way, the European Report to the Mexico World Water Forum stresses the need to clearly identify the public authority that is responsible for providing those services to the whole population, its detailed obligations and, if different, the public authority that is responsible for setting the price structure that is affordable to all individuals.”

<sup>13</sup> 120 mayors, 150 elected representatives, i.e. 270 people to compare with 78 ministers for 149 official delegations.

*“ We, Mayors and local elected representatives from around the world,*

*Mindful of the responsibilities and powers of local authorities in relation to drinking water and sanitation, recall the following principles:*

*- All human beings have the right to water in the quantity and the quality required to meet their essential needs, as well as to sanitation, a key factor in human health and the preservation of ecosystems.*

*- Each individual’s right to and use of water must be exercised with respect for the needs of present and future generations.”*

This statement is in line with the declaration of Paris adopted by United Cities and Local Governments in 2004.<sup>14</sup> It is difficult to understand why the same concept can be agreed upon by mayors but not by governments.

### **The Parliamentarians Declaration in Mexico**

Representatives and senators at a World Encounter of Water Legislators (Mexico, 20 March) ( Encuentro Mundial de Parlamentarios del Agua), declared that actions which we shall take at local level will aim at implementing the principle that :

*“each human person has an essential right of access to water”.*

### **The Children’s Declaration**

The 2nd Children’s World Water Forum, representing 29 countries in Mexico, asked all adult decision makers to: “ Fulfill the human right to sustainable, safe drinking water supplies and basic sanitation, through the provision of child-friendly facilities in all schools and communities, taking into account the needs of girls, very young children and children with disabilities.”

### **International organisations**

The UN Secretary General and the WHO Director General have expressed themselves as strong supporters of the right to water. In Mexico, the Director General of Unesco, Mr. Koichiro Matsuura referred to the 24 UN agencies Report on world water development entitled “Water: a shared responsibility” and indicated that the first key recommendation of the Report is:

*“We need to recognize that access to clean water is a fundamental right”.*

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<sup>14</sup> “Water is a basic need, and a basic right, of our communities. Access to sufficient, good quality water at a reasonable price must be a right for all, and requires both legislative and social measures to protect the least advantaged communities. We commit ourselves to ensuring efficient, fair and sustainable water management and sanitation within our areas and our competences. ”

The World Water Council was very active in supporting discussions on the right to water. It published a synthesis report on this issue.<sup>15</sup> This document prepared with the support of a panel of experts explains the scope of the right to water and shows how it has been implemented in various countries. The OECD presented statistical data, which show that progress towards reaching the MDG is slow in part because the amount of aid for water is growing very slowly.<sup>16</sup>

## **Civil society position**

Representatives of various Christian churches are now involved in the debate over the right to water. The Holy See issued a well-documented report.<sup>17</sup> The text states that:

*“Water is intrinsically linked to fundamental human rights such as the right to life, to food and to health. Access to safe water is a basic human right. In a Message to the Bishops of Brazil in 2004, Pope John Paul II wrote, “as a gift from God, water is a vital element essential to survival, thus everyone has a right to it”.*

*“Defining access to safe water as a human right is an important step in making this access a reality in the lives of many people living in poverty. A rights based approach places the human being at the center of development. Access to safe water is made a legal entitlement rather than a service or commodity provided on a humanitarian basis. Those least served can be better targeted and many of the discriminatory practices and inequalities be decreased. Communities that may have been vulnerable or marginalized can more easily enter into the decision-making processes. The means and mechanism to hold governments accountable for the access of their citizens to safe water will have been realized. Taking all this into consideration, a rights based approach would lead to acceleration in achieving basic and improved levels of access to safe water”.*

Other significant statements on the right to water were issued by American Catholic churches<sup>18</sup> and by the World Council of Churches (Protestant and Orthodox).<sup>19</sup> They all

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<sup>15</sup> Celine Dubreuil : “The Right to Water, From Concept to Implementation”, World Water Council, 2006 (52 p) (<http://www.worldwatercouncil.org/index.php?id=3&L=0#6252>).

<sup>16</sup> According to OECD Statistics on aid for water supply and sanitation, France’s commitments in 1999/00, 2001/02 and 2003/04 were 209, 176 and 163 MUSD. Disbursements in 2003 were 117 and in 2004, 122 MUSD. On the other hand, multilateral donors increased their contribution. According to OECD, there is “no sign of increased prioritisation of the water sector as such.”

<sup>17</sup> Holy See: Water an essential element for life-An update, 2006

<sup>18</sup> Water : Essential for Justice and Peace, [www.ncrlc.com/waterEssentialJusticepeace.html](http://www.ncrlc.com/waterEssentialJusticepeace.html)

<sup>19</sup> The 9th Assembly of the World Council of Churches meeting in Porto Alegre, Brasil 14-23 February 2006 agreed to : “ undertake advocacy efforts for development of legal instruments and mechanisms that guarantee the implementation of the right to water as a fundamental human right at the local, national, regional and international levels”.

demonstrate the unanimous views of churches in favour of the right to water.

Civil society is strongly supporting the right to water through numerous statements and declarations, which do not need to be repeated here.

During the World Water Forum, representatives of private water operators (Aquafed, which includes local, national and major multinational enterprises dealing with water<sup>20</sup>) issued a statement<sup>21</sup> in which it recalled that business has officially endorsed the right to water in 2005 at UNCS D 13<sup>22</sup>. For Mr. Gérard Payen, President of Aquafed, “There is now the understanding that the implementation of the right to water requires that a public authority is allocated the duty and the means to make the right effective”. Aquafed now “urges the international water community to work on the implementation of the right to water in order to make it effective for all people in need”. It also states that “implementation of the right to water is a challenge for which private operators, public and private, have significant experience. Their mission is to make the right to water a reality for people.” For Mr. Gérard Payen, the lack of consensus on the right to water stems from an uncertainty surrounding its implications

Trade unions also support the right to water. At an Assembly on Labour and Environment attended by 150 trade unions in Nairobi in January 2006, trade union representatives agreed “to ensure human rights and equity with respect to access to resources such as water and energy”.

Representatives of all NGO’s in Mexico have actively supported the right to water. French NGOs consider in particular that the right to water should be formally recognized by governments and translated into national legislations.<sup>23</sup> A few new monographs on the right to

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<sup>20</sup> Suez and Veolia expressed themselves many times in favour of the right to water. For instance, A. Antoine Frérot, Director general of Veolia-eau, wrote : “Qui pourrait contester que le droit à l’eau est un droit humain essentiel?”, “Parce que ce droit est fondamental, il doit devenir effectif”, *Le Monde*, 17 March 2006.

<sup>21</sup> “Private Water Operators call to turn the right to water into a reality for all people, [www.aquafed.org](http://www.aquafed.org) “The international water community needs to acknowledge that three steps are necessary to implement the right to water locally: - Acknowledging the content of the right to water., - Identifying the public authority in charge of the implementation of the right to water, its related duties and its means of action, - Making the right real to every individual through delivery in the field.”

<sup>22</sup> Business and industry major group statement presented by by Dr. Steve Lennon, Chair, ICC Environment/Energy Commission at the 13th Session of the Commission on sustainable development : “Business and industry has emphasized the importance of implementation of agreed sustainable development commitments and objectives, particularly those in Agenda 21, the JPOI, MDGs and Monterrey Consensus. We also note that the 2002 International Covenant relating to Economic, Social and Cultural Rights includes the right to access to water, which is consistent with these other commitments. We hope that, while supporting a rights-based approach, that follow-up from CSD13 will stress the priority need of the poorest populations to have access to potable water, sanitation and other water services. ”

<sup>23</sup> Call from French NGO’s toward next World Water Forum, 2006. See at [www.water-international-france.fr/mexico/IMG/pdf/Final\\_Call\\_from\\_french\\_NGOs\\_water.pdf](http://www.water-international-france.fr/mexico/IMG/pdf/Final_Call_from_french_NGOs_water.pdf) -

water have been issued.<sup>24</sup> A comparison was provided of ways by which the human right to water was introduced in national legislation.<sup>25</sup>

A number of NGOs are promoting discussion and preparation of an international legal instrument on the right to water such as a convention.<sup>26</sup> The French think tank “Resources” is also seeking an international legal framework for the promotion of the right to water.<sup>27</sup> In Mexico, a group of NGO’s have started lobbying for new work on the right to water within the UN Human Rights Council.<sup>28</sup>

One of the key issues raised by activists was the legitimacy of profit making on the sale of water services being understood that water as a God given resource cannot be a source of profit. They cannot accept the idea that shareholders in industrialized countries would benefit from business on water with miserable people living in most backward areas. For them water is not a commodity like steel and is subject to ethical rules rather than rules of international trade. This is not the first time that the legitimacy of water business is being debated. In the past, many Governments in developed countries were given the right to expropriate private water utilities for reasons of protecting public interest and to issue bonds at lower interest rate. These old laws would probably be in contradiction with current bilateral or multilateral agreements that protect foreign investors.

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<sup>24</sup> Hoffmann, Sabine : “The Implementation of the Right to Water In Central and Eastern Europe”, Programme Solidarity Water Europe. 2006.

<sup>25</sup> See for instance Henri Smets : “Le droit à l’eau dans les législations nationales”, Académie de l’eau, 2005, AFD, Paris 2006.

<sup>26</sup> Key principles for an international treaty on the right to water, 2005. See also the draft convention described at [watertreaty.org](http://watertreaty.org), [i-s-w.org](http://i-s-w.org), [greencrossinternational.net](http://greencrossinternational.net) et [almaeau.org](http://almaeau.org) (Convention cadre sur le droit à l’eau) and the competing text at [alliancesud.ch](http://alliancesud.ch) (Pour une convention internationale sur l’eau). Note also that the European Parliament supports the drafting of a convention on the right to water.

<sup>27</sup> “Préciser la définition du droit à l’eau et à l’assainissement et trouver un cadre juridique adapté à sa mise en place au niveau international”. [www.re-sources-network.com](http://www.re-sources-network.com)

<sup>28</sup> An international group of NGOs at the World Water Forum in Mexico, called on Governments to agree to a formal declaration at the UN Human Rights Council that would result in a commitment to implement all actions within their power to guarantee that every human being shall have the right to sufficient and affordable clean water in or near their home, school or workplace. The group of NGOs are calling for governments to:

- adopt a resolution at the UN Human Rights Council to strengthen the right to water.
- establish an international mechanism to monitor implementation of the right to water, such as a UN Special Rapporteur on the right to water.
- bring, as a matter of priority, their national water and sanitation laws and policies in line with UN General Comment 15 on the Right to Water. See [www.cohre.org/water](http://www.cohre.org/water).

## CONCLUSIONS

When concluding the Forum, the President of CONAGUA (Comision nacional del agua of Mexico), Mr Cristobal Jaime Jaquez, stated that : “all human people have the right to water and sanitation”<sup>29</sup> . The World Water Forum has succeeded in bringing the right to water to the forefront in Mexico, but failed in providing any agreed ministerial views on this issue. This is compensated by the strong support for this concept from mayors, elected representatives, and more generally civil society. In particular, business organisations and large enterprises made unambiguous statements in favour of the right to water.

The Forum did not provide sufficient opportunity for meaningful discussion among governments on objections which some countries may have concerning the recognition of the human right to water, i.e. the right of access to drinking water and sanitation. Many countries do not seem to know that the right to water has already been endorsed by the General Assembly of the United Nations<sup>30</sup> and is already included in a number of binding treaties. Some civil servants react as if the right to water was against the interests of water business or detrimental to free trade in spite of the fact that private enterprises dealing with water have expressed themselves as strong supporters of the right to water.

A few ministers question whether recognizing the right to water at a World Water Forum would require them to substantially change their national laws or would affect their international position. Some delegates do not want to take any position on a matter which is entirely the responsibility of lower levels of government even if they did not act as cautiously when they dealt with the right to food.<sup>31</sup> The problem is that they do not want even to admit officially that the matter was discussed in Mexico, analysed in General Observation N°15 or that mayors expressed their opinion on it.

Fortunately the majority of Ministers is in favour of the right to water which has been introduced successfully in a growing number of national laws without causing any particular problem. At least fifty States already expressed themselves in favour of the right to water (Annex) and over 192 States are legally committed to providing drinking water to

<sup>29</sup> “Considero que el foro nos ha mostrado una serie de principios muy valiosos. dentro de ellos, podemos señalar los siguientes: - todos los seres humanos tenemos derecho a contar con agua potable y servicios adecuados de saneamiento. - el agua tiene un costo ambiental y economico que es necesario reconocer...”

<sup>30</sup> The Resolution UNGA A/ RES/ 54/175 (15/2/2000) “The right to development” was adpted by a large majority. It: “Reaffirms that, in the full realization of the right to development, inter alia: (a) The rights to food and clean water are fundamental human rights and their promotion constitutes a moral imperative both for national Governments and for the international community”.

<sup>31</sup> The Mexican press stated that “Although all of the delegates said they agreed with the principle, some argued that it was not feasible to include it in the final declaration, because it could generate legal problems at the national and international level”. This statement is a clear indication that delegates fail to understand that a non binding declaration from a non UN body does in no way create legal problems. If it did, then problems would already exist because all States have recognized the right to water in the Cairo declaration(1994). The issue is not legal but political, some States are against recognizing “new” human rights and some States have little regard for human rights in general.

children. The fact that thousands of children are still dying everyday because of unsafe water does in no way distract developing countries from their support for this fundamental human right.<sup>32</sup>

Most ministers expressed their interest in working out an effective right to water at a national level and may find it useful to also develop the right to water in regional frameworks. For instance, the Mexican Secretary of State for Environment, Mr. José Luis Luege Tamargo, stated that : "Todos reconocemos que el acceso al agua es un derecho fundamental, pero tendremos que trabajar más para incorporarlo a las Constituciones y las leyes nacionales".

Mayors who are more likely to be primarily responsible for providing access to water and sanitation now stand firmly for the right to water. Together with members of parliaments, and elected representatives, they expressed themselves in favour of the right to water. Similarly religious leaders and the whole civil society give recognition to this concept. It is now time for governments to listen to their citizens and act accordingly.

At the next Forum in Istanbul, Ministers could take it upon themselves to give their own views on water governance and on implementing the right to water. The “rule” of consensus should not impede the general recognition of the right to water by most States and the rule of transparency should encourage all Ministers to express themselves as clearly as mayors did in Mexico. No State can be obliged to recognize the right of water nor to ban the death penalty. The important issue will be to show that the right to water can be implemented with success and is useful to facilitate access to water and sanitation for all.

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<sup>32</sup> According to Unesco, globally, diarrhoeal diseases and malaria killed about 3.1 million people in 2002, 90 % of them children under the age of five. An estimated 1.6 million lives could be saved annually by providing access to safe drinking water, sanitation and hygiene ( i.e. 4400 lves per day).

## **Annex . Over 50 States explicitly support the right to water**

This list is based on official declarations in favour of the right to water, on national laws and jurisprudence which implement the right to water and is thought to be incomplete. Over a dozen Constitutions mention access to water as a fundamental right and many others refer to economic and social rights. States which implement the right to water at national level but object to its recognition at international level are omitted from the list.

Algeria	Ireland
Argentina	Luxembourg
Belgium	Kenya
Benin	Madagascar
Burkina Faso	Mauritania
Brazil	Mexico
Bolivia	Morocco
Cameroon	Nicaragua
Colombia	New Zealand
Costa Rica	Niger
Chile	Nigeria
Congo	Norway
Cuba	Panama
Ecuador	Peru
Ethiopia	Philippines
Finland	Portugal
France	Romania
Gabon	Senegal
Gambia	South Africa
Guatemala	Spain
Germany	Switzerland
Hungary	Uganda
Indonesia	Ukraine
Italy	Uruguay
	Venezuela
	Vietnam

Remarks:

a) Most States are bound by the Convention on the rights of children (CRC, 192 ratifications), the Convention on the elimination of discrimination against women (CEDAW, 182 ratifications) or the International Covenant on Economic, Social and Cultural Rights (152 ratifications) which include provisions related to the right to water. Many constitutions protect economic and social rights of the individual without providing further specification.

b) The 1994 Programme of Action of the International Conference on Population and Development (Cairo) recognized that all individuals have the right to an adequate standard of living for themselves and their families, including adequate food, clothing, housing, water and sanitation (Principle 2). The Cairo declaration was adopted by consensus. Other relevant declarations include the Mar del Plata (1977) and the Dublin (1992) declarations.

c) Some States have ratified regional treaties on human rights which include the right to water:

- The Protocol of San Salvador to the Inter-American Convention on Human Rights recognizes the right of all to access to public services. This right necessarily includes the right to water. It has been ratified by Argentina, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Paraguay, Peru, Mexico, Suriname, Uruguay.

- The African Charter on the Rights and Welfare of the Child, 1990 requires States to provide safe drinking water to children. It has been ratified by Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Comoros, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Kenya, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Saharawi Arab Democratic Republic, Senegal, Seychelles, South Africa, Sierra Leone, United Republic of Tanzania, Togo, Uganda, Zimbabwe.

d) All European countries have adopted the right to water within a Recommendation of the Committee of Ministers of the Council of Europe (2001). Seventeen European countries are now parties to the Protocol on Water and Health (1999) which includes the provision:

“Parties shall, in particular, take all appropriate measures for the purpose of ensuring: (a) adequate supplies of wholesome drinking water...b) adequate sanitation...”