

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AI Index: IOR 40/014/2012
18 June 2012

United Nations: Rio +20 must affirm rights to water and sanitation are legally binding – without arbitrary territorial exclusions

Amnesty International welcomes plans to re-affirm the rights to water and sanitation at the United Nations (UN) Conference on Sustainable Development (Rio+20). However, the organisation is deeply concerned that the current formulation in the draft Outcome would undermine the legal recognition of the rights to water and sanitation, rights that are essential for life, for dignity and for sustainable development.

The draft Rio +20 Outcome document of 16 June presented by Brazil as hosts of the conference states: “We recognize our commitments regarding the human right to safe drinking water and sanitation as inextricably related to the right to the highest attainable standard of physical and mental health as well as the right to human life and dignity,”(Paragraph 121). This formulation fails to acknowledge that the rights to water and sanitation are not merely linked to other human rights, such as the right to health, but they are rights that are derived from the right to an adequate standard of living. The proposed formulation is a serious step back from the groundbreaking reaffirmation by the UN Human Rights Council in September 2010 (Resolution 15/9) and its subsequent restatements since then in Resolution 16/2 of 24 March 2011 and Resolution 18/1 of 28 September 2011. The Council has reiterated the recognition by the United Nations Committee on Economic, Social and Cultural Rights that the rights to water and sanitation – like the rights to food and adequate housing - emanate from the right to an adequate standard of living contained in Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights. It thereby affirmed that the rights to water and sanitation are implicitly contained in several human rights treaties, including the International Covenant on Economic, Social and Cultural Rights and the UN Convention on the Rights of the Child and are therefore legally binding rights. In contrast, the current draft Rio+20 Outcome document simply indicates that the rights to water and sanitation are linked to other rights, but apparently purposely refrains from affirming their legal basis. Such a glaring omission is inconsistent with the legal recognition of these rights. States committed to these rights must forcefully counter efforts by some States to use the Rio negotiations to weaken language that has resulted from years of discussion at the Human Rights Council.

The draft Rio +20 Outcome document also includes the phrase: “Affirming the need to focus on local and national perspectives in considering the issue and leaving aside questions of all transboundary water issues” (Paragraph 121). Obligations of states in relation to human rights do not end at national borders, including with regard to transboundary water issues. At a minimum, States have an obligation to minimise pollution of shared watercourses where this would have an impact on the right to water in other countries. These obligations are already well recognised under customary international law relating to transboundary watercourses that require that States do not cause significant harm to others and that water resources are reasonably and equitably used. One State, Canada, has vocally expressed concern that the right to water might require States to carry out bulk water exports (e.g. to export large quantities of water from one country to another). This has never been identified as a requirement of States. The right to food has not led to demands placed on countries that have large food surpluses to transfer those particular items to other countries. Rather, States in a position to provide aid have chosen whether to provide aid through financial assistance or through direct provision of food aid.

The phrase “Affirming the need to focus on local and national perspectives in considering the issue and leaving aside questions of all transboundary water issues” repeats language that was included for the first time in Human Rights Council Resolution 7/22 (March 2008) which established the mandate of an Independent Expert on water and sanitation. That language was next repeated in resolution 16/2 (March 2011) which renewed the mandate of the Independent Expert as a Special Rapporteur and subsequently in resolution 18/1 (September 2011). The motivation and effect of this phrase is apparently to exclude transboundary water issues from the work of the Independent Expert. It would not be appropriate to consider this language as ‘agreed language’ that is appropriate to include in the Rio +20 Outcome, which does not deal with the mandate of the Special Rapporteur.

The Human Rights Council resolutions on water and sanitation refer to the ‘human right to safe drinking water and sanitation.’ Amnesty International interprets these resolutions as implying two rights: a right to water and a right to sanitation. This is also the interpretation of States that have opposed references to the ‘human right to safe drinking water and sanitation’ as they do not recognise the right to sanitation. The UN Committee on Economic, Social and Cultural Rights has also stated that there are distinct rights to water and to sanitation. Such distinct recognition is important since sanitation deserves special attention in order to prevent its neglect.

This work forms part of Amnesty International’s Demand Dignity campaign, which focuses on human rights violations that drive and deepen poverty. Under the campaign, Amnesty International is focusing on human rights violations against people living in informal settlements and slums, including the denial of equal access to public services. For more information visit the [Demand Dignity website](#)

Public Document

For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566 or email: press@amnesty.org
International Secretariat, Amnesty International, 1 Easton St., London WC1X 0DW, UK