

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

AI Index: IOR 41/020/2012  
29 October 2012

### **United Nations: States must recognise and not undermine the content of the rights to water and sanitation**

The UN Human Rights Council at its 21<sup>st</sup> session adopted resolution 21/2 on “The human right to safe drinking water and sanitation” by consensus. This statement reflects on the developments with regard to that resolution.

At the 21<sup>st</sup> session, for the first time all delegations accepted the reaffirmation of the right to sanitation. All States accepted the reaffirmation that the rights to water and sanitation are derived from the right to an adequate standard of living. Amnesty International welcomes these developments; however it would like to see the Council’s progress on the rights to water and sanitation reflect the content of these rights.

Amnesty International regrets that at the 21<sup>st</sup> session States most supportive of the rights to water and sanitation allowed the negotiation of the resolution to be dominated by the countries that have only recently recognized them. The resolution reflects the disproportionate influence of States whose focus appears to be to limit the scope of these rights. We urge States supporters of the rights to water and sanitation to be vigilant and actively counter future attempts to restrict the scope of these rights.

#### **Definitions of the rights to water and sanitation**

It has been a decade since UN Committee on Economic, Social and Cultural Rights first recognised the right to water as legally binding and affirmed that the right entitles all persons, without discrimination, to access sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses, which ordinarily include drinking, washing of clothes, food preparation and personal and household sanitation and hygiene. The resolution adopted at the 21<sup>st</sup> session fails to reiterate the Committee’s findings on rights-holders’ entitlement to water for such essential uses. Amnesty International is deeply concerned at States’ incomprehensible reluctance to commit to such uses. This concern is heightened because the Council persists in using the term “right to safe drinking water” in its resolutions. This can be misunderstood to refer only to water for drinking and not for other essential uses; such confusion could unduly limit the content of the right to water.

The Human Rights Council also failed to agree on language recognising that the right to sanitation entitles everyone, without discrimination, to physically accessible and affordable sanitation, in all spheres of life, which is safe, hygienic, secure, socially and culturally acceptable, provides privacy and ensures dignity. The UN Committee on Economic, Social and Cultural Rights and the UN Special Rapporteur on the human right to safe drinking water and sanitation have already defined the right to sanitation in this way. One delegation even requested deletion of the criteria of privacy and dignity from the definition. The days when open defecation were acceptable as a community standard are long over, and the Council must reflect this in its future work.

By failing to include the authoritative definitions of the right to water and of the right to sanitation in its resolution, the Council missed an important opportunity to reaffirm that the right to water and the right to sanitation each involve distinct claims by rights-holders and distinct obligations and necessary policy responses from governments.

## **Marginalized groups**

Amnesty International welcomes the Council's decision to add a reference to the Special Rapporteur's report on "Stigma and the realization of the human rights to water and sanitation" and the Council's expression of concern regarding the impact of discrimination, marginalization and stigmatization on the human right to safe drinking water and sanitation.

Amnesty International further welcomes the Council's call on States to prioritise the most marginalized, excluded and disadvantaged persons in extending access to water and sanitation. It is, however, deeply concerned that States were unable to agree on language stating the need to ensure provision of water to informal settlements and the collection of waste from them. Persons living in informal settlements are amongst the most disadvantaged, including in terms of access to water and sanitation. The Council must not fail to adequately address their needs in future resolutions.

## **Transboundary water issues**

Amnesty International is also concerned that certain States successfully managed to reinsert language into the resolution that aims to exclude transboundary water issues, language that the main sponsors had rightly left out of the first draft of the resolution.

That language was initially included in order to limit the issues to be considered by the Independent Expert appointed by the Council in 2008 (now the Special Rapporteur). An attempt to preclude a Special Rapporteur from considering issues is regrettable in itself, but the exclusion of transboundary water issues can have an even more negative effect. Continued repetition of this language risks giving the false impression that the Council intends to try to restrict the legal scope of the right to water. States' obligations in relation to human rights do not end at national borders and this includes the right to water in connection with transboundary water issues. For instance, States have an obligation to minimise pollution of shared watercourses where this would have an impact on the enjoyment of right to water in other countries. Relevant obligations that are already clearly recognised under customary international law relating to transboundary watercourses require that States not cause significant harm to others and that water resources are reasonably and equitably used.

It is worth noting that the Outcome Document of the World Summit on Sustainable Development, adopted in June 2012, does not include this language on transboundary watercourses, even though certain States proposed it for inclusion. Amnesty International urges the Human Rights Council to follow suit in its future resolutions.

## **Post-2015 UN development agenda**

Amnesty International welcomes the Council's call on States "to build the post-2015 framework on the values outlined in the Millennium Declaration around the fundamental principles of respect for human rights, equality and sustainability, and to integrate the human right to safe drinking water and sanitation into the international development agenda beyond 2015."

## **BACKGROUND**

The UN Human Rights Council held its 21<sup>st</sup> regular session from 10 to 28 September 2012.

At the session, the Special Rapporteur on the human right to safe drinking water and sanitation, Ms. Catarina de Albuquerque, presented her thematic report "Stigma and the realization of the human rights to water and sanitation" (A/HRC/21/42). The report examines stigma against certain groups as a driver of discrimination and stresses that the most

marginalised, most vulnerable, or stigmatised individuals and communities are most affected by the lack of enjoyment of their rights to water and sanitation.

On 27 September, the Council adopted by consensus the resolution “The human right to safe drinking water and sanitation” (A/HRC/RES/21/2). The resolution takes note of the Special Rapporteur’s report to the 21<sup>st</sup> session, but primarily focuses on the issues raised in the Special Rapporteur’s second report to the General Assembly titled “Financing for the Realization of the Rights to Water and Sanitation” (A/66/255). All Special Rapporteur’s reports are available on the OHCHR webpage:

<http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/AnnualReports.aspx>

UN Human Rights Council resolutions refer to “the right to safe drinking water and sanitation”. The term “drinking water” refers to water that is suitable to drink (i.e. potable), regardless of the purpose to which it is used. To avoid any misleading suggestion that “drinking water” refers only to water for drinking and not to water for other essential uses, such as food preparation or personal hygiene, Amnesty International advocates the use of “right to water” or the “right to safe water” in UN resolutions.

At the 21<sup>st</sup> session, the first draft resolution proposed by the main sponsors included paragraphs spelling out the contents of the rights to water and sanitation based on definitions used by the UN Committee on Economic, Social and Cultural Rights and the Special Rapporteur. One paragraph helped clarify that the right to water is not limited to water for personal consumption only, but also applies to other essential uses. The content of the right to water was defined in 2002 by the Committee in General Comment No. 15 on the Right to Water (E/C.12/2002/11). The content of the right to sanitation was defined by the Special Rapporteur (at the time Independent Expert) in her thematic report on sanitation to the Council in 2009 (A/HRC/12/24), and this definition was then relied upon by the Committee on the Economic, Social and Cultural rights in its 2010 Statement on the Right to Sanitation (E/C.12/2010/1).

Council resolutions on water and sanitation refer to the “human right to safe drinking water and sanitation”; Amnesty International interprets this reference as covering two distinct rights: a right to water and a right to sanitation. The UN Committee on Economic, Social and Cultural Rights has stated that there are distinct rights to water and to sanitation. There is general consensus among experts on water and sanitation that sanitation deserves special attention in order to prevent its neglect. The recognition of the distinct rights to water and sanitation is important in order to prevent the neglect of sanitation. The consequences of neglecting sanitation are dire. Lack of access to adequate sanitary facilities (including toilets and latrines) is one of the primary causes of infant mortality and demeans the dignity of people denied such access. In slum communities, lack of access to a toilet in or next to the home puts women at risk of violence at night.

**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](mailto:press@amnesty.org)

International Secretariat, Amnesty International, 1 Easton St., London WC1X 0DW, UK