Identifying and Addressing
Violations of
the Human Right
to Water

Applying the
Human Rights Approach
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“Bread for the World” is a development organization under the auspices of the Protestant Churches in Germany. Since 1959 it has sought to contribute to overcome hunger and poverty in the developing countries. In March 2003, “Bread for the World” launched a campaign for the human right to water. An important objective of the campaign has been to contribute to the strengthening of an international network to defend the human right to water. As part of these efforts, Bread for the World has been one of the founders of the Ecumenical Water Network (EWN), an international network of churches and church-related organizations promoting the preservation, responsible management and equitable distribution of water for all.

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The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.”

However, about 1.1 billion people worldwide do not have access to safe and sufficient water to drink, to cook with or for personal hygiene. Combined with the lack of adequate sanitation this causes the death of about 2 million people every year, most of them children. Many more suffer daily from the lack of water, from water related diseases and from the loss of income and education that goes hand in hand with the resulting health problems and the laborious collection of water.

The poorest are particularly affected by the lack of safe water because more of them obtain their water from so-called “unimproved” sources likely to be a threat to health such as unprotected wells or expensive water vendors.

- 60% of the poorest households depend for their (basic) water supply on unimproved sources – compared to 10% of the richest households.
- More than 8 out of 10 households without access are in rural areas.
- Two thirds of the 1.1 billions without access live in Asia.
- Coverage is worst in Sub-Saharan Africa, where only 56% of the population have access to improved sources of drinking water.
- In some countries, spending five hours per day collecting water to meet the family's needs is not unusual. Women and girls shoulder this burden of hauling water especially in Africa and Asia.

Even though there has been some progress in the past decade, the situation is marked by the desperate need for further and faster improvement. In addition to problems concerning insufficient financial resources, technical expertise or scarcity of water sources in developing countries, it is too often a lack of political will and commitment that holds back the necessary expansion and improvement of access to water. In many cases, mismanagement and lack of interest by the authorities not only prevent improvements, but even worsen the situation by depriving people of their existing access to water. One of the major problems is the discrimination and wilful neglect of the poor and marginalized who lack the power to defend themselves and their rights.

This is where the human rights approach can help. It stresses above all the responsibility of a state: the right to water entitles every individual to have access to adequate water and it is the state's obligation to do everything possible to realize this for everybody without discrimination. Where states fail to carry out this duty, the human rights perspective makes it possible to hold them accountable. Access to adequate water is discussed not only as a moral duty but also as a political and legal claim. The human right to water has increasingly gained attention through this approach. Civil society groups around the world use it to reveal political failures and to claim better water governance.

In 2002, the General Comment No. 15 (GC15) on the Right to Water was issued by the United Nations Committee on Economic, Social and Cultural Rights. This UN document clarifies the various aspects of the right to water and lists the general and specific obligations of states with respect to this fundamental right. It further defines that access to adequate sanitation is part of the right to water because the lack of access to adequate sanitation “is the primary cause of water contamination and diseases linked to water.” (GC15, para.1) The document thereby provides a measure for government policies, laws and administrative action, and helps to show where they are falling short.

It is encouraging to see that since the first printing of this brochure in 2005, the recognition, definition and implementation of the human right to water has already made further progress:
- The UN Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to make a study of the scope and the content of the human rights obligations of states related to access to safe drinking water and sanitation under international human rights instruments. The report was published in August 2007 and took into account the views of all the states and stakeholders that made contributions. This was a significant step in the further recognition and definition of the right to water within the UN Human rights system (see chapter 2: The right to water at the international level).
- In March 2008, the UN Human Rights Council adopted a resolution which recognized human rights obligations with regard to access to water and sanitation and established for the first time an Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation.

4 WHO / UNICEF: Meeting the MDG drinking water and sanitation target, 2004 (page 20)
2008 was declared the International Year of Sanitation (IYS) by the UN General Assembly, with the aim of encouraging both member states and the UN system to increase awareness about sanitation issues, and to promote activities so as to fulfil the Millennium Development Goal of ensuring environmental sustainability and – in this context – to “halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation.”

A growing number of governments have officially recognized the human right to water and have made commitments to both include and apply the right in constitutions, laws and policies: Already in 2004, the Uruguayan people decided in a popular referendum to incorporate access to water as a human right into the Uruguayan constitution. The federal government of Belgium decided in 2005 that the human right to water should be included in the Belgian constitution. The same decision highlighted that development aid for drinking water and sanitation should be increased without imposing conditions forcing developing countries to liberalize or privatize their water markets. At the World Water Forum in Mexico in 2006 Bolivia, Cuba, Uruguay and Venezuela came forward with a declaration in which they recognized the human right to water. In France, the French Senate passed the following amendment to the national water bill: “Each person has the right of access to drinking water for his or her own supply and hygiene at economically acceptable conditions”. And in 2006, Hilary Benn, Secretary of State for International Development of the United Kingdom, announced: “The UK Government recognizes that access to safe, affordable water is a human right.”

Despite this growing support and recognition, there is still a long way to go to translate the human right to water into access to water for all. Besides promoting recognition of the human right to water, we need to demonstrate that it is possible to implement the right to water in programmes, policies and laws. By identifying best practices and monitoring violations at the local, national and international level we can all contribute to this.

Bread for the World and FIAN International continue to be committed to promoting the human right to water and to strengthening international networks of people and organizations who share this common goal. Bread for the World is one of the founders of the Ecumenical Water Network (EWN). The Ecumenical Water Network is an international network of churches and church-related organizations promoting the preservation, responsible management and equitable distribution of water for all – based on the understanding that water is both a gift of God and a human right.

Together, we have prepared this second, updated and revised version of “Identifying and Addressing Violations of the Human Right to Water”. It seeks to assist affected communities and those who support them in their struggles at the grassroots, by addressing violations of the human right to water, defending and reclaiming people’s rights, and their access to water.

8 MDG Monitor (http://www.mdgmonitor.org/goal7.cfm)
9 Complementary Declaration of the 4th World Water Forum by Bolivia, Cuba, Uruguay, and Venezuela
10 DFID (Department for International Development, United Kingdom): Why we need a global action plan on water and sanitation. 2006.
The right to water at the international level

In this brochure, the term right to water will be presented and used as it is developed in General Comment No. 15 on the right to water. This is an authoritative legal interpretation issued in 2002 by the United Nations Committee on Economic, Social and Cultural Rights which is the monitoring treaty body to the International Covenant on Economic, Social and Cultural Rights (ICESCR). Like the International Covenant on Civil and Political Rights or the Convention against Torture – it is one of the major human rights treaties that have been adopted and are being monitored within the framework of the United Nations human rights system. The ICESCR has been in force since 1976 and currently 157 states have ratified the treaty and are therefore legally bound by it. This means that they are obliged to implement the provisions of the treaty at the national level.

In the Covenant, the right to water is not directly mentioned. However, General Comment No. 15 says that it is included within the right to an adequate standard of living and the right to health in Articles 11 and 12 of the Covenant. Furthermore, the General Comment also makes reference to a number of international law bodies and international documents in which the human right to water has been recognized.

The General Comment on the right to water is an interpretation and not a treaty. Therefore it is not of itself legally binding. However, it is based on the provisions of the International Covenant on Economic, Social and Cultural Rights and on the general acceptance of fundamental human rights like the right to life and the right to health. It is also supported by the authority of the Committee on Economic, Social and Cultural Rights which is composed of independent experts who are nominated and elected by the states parties to the Covenant and have a mandate from these states to issue general comments.

A study of the Office of the United Nations High Commissioner for Human Rights (OHCHR) about the human rights obligations of states related to access to safe drinking water and sanitation concludes “that it is now time to consider access to safe drinking water and sanitation as a human right”. The fact that the Human Rights Council commissioned this study and the contributions to it from many member states, intergovernmental organizations, NGOs, national human rights institutions, experts and representatives of the private sector show that access to water is clearly recognized not just as a development but also as a human rights issue. The study asks states “to prioritize (…) personal and domestic uses over other water uses” and to “take steps to ensure that this sufficient amount is of good quality, affordable for all and can be collected within a reasonable distance from a person’s home.” Besides the clear recognition of the right to water, the study highlights the need to further define this right. It underlines the need for additional instruments and mechanisms at the UN level to address the issues related to the right to water.

International monitoring mechanisms

Every five years every country has to present a report to the Committee about the effort and progress that it has made to realize the economic, social and cultural rights within the country. NGOs and individuals are able to present so called parallel reports to the Committee. FIAN regularly presents such parallel reports concerning violations of the right to food and water. In its Concluding Observations the Committee included over the last years several recommendations that urge the states to respect, protect and fulfill the right to water and related rights.

In 2006 the UN General Assembly mandated the Human Rights Council to “undertake a universal periodic review, based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States; the review shall be a cooperative mechanism, based on an interactive dialogue, with the full involvement of the country concerned (…)”. Consequently the Human Rights Council created in 2007 a new control mechanism, the so called Universal Periodic Review, that offers the possibility to review measures member states have made and are planning, in order to respect, protect and fulfill their international human rights obligations. Issues related to the right to water can be addressed in this context. Each member state of the Human Rights Council is requested to present a report about its measures over a four year cycle.

At the UN level Special Rapporteurs monitor certain human rights or specific victim groups. Some of them are responsible for rights that are closely related to the right to water (for example the right to food, health or education) meaning they are involved in water issues. Furthermore, the UN Human Rights Council decided in March 2008 to create a three-year mandate for an Independent Expert on water and sanitation. This expert has the task to facilitate the further clarification of human rights obligations related to access to water and sanitation as well as to collect examples of how the human right to water and sanitation can best be implemented in practice.

11 You can find a list of all states who have ratified the Covenant at http://www2.ohchr.org/english/bodies/ratification/3.htm
12 For example, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child.
13 OHCHR 2007, para. 66.
14 See: COHRE: Legal resources for the right to water. 2003, p. 98f.
17 The reports are presented to a working group composed of the member States of the Council and chaired by the president of the Council.
The right to water on the national and regional level

States have to translate international human rights law into their national legislation. The UN Committee on Economic, Social and Cultural Rights asks states in the General Comment 15 to implement a national strategy to realize their human rights obligations. It states that “existing legislation, strategies and policies should be reviewed to ensure that they are compatible with obligations arising from the right to water, and should be repealed, amended or changed if inconsistent with Covenant requirements.” (para.47, 46)

Many countries have already included access to safe water in their national constitutions. Some of them as for example Ecuador, South Africa or Uganda are referring directly to the right to water. The right to a healthy environment or a similar formulation is today mentioned in most of the national constitutions and allows deriving obligations concerning the right to water.

There are also several possibilities at the regional level to claim that economic, social and cultural rights should include rights related to water. In Africa such rights have already been claimed at the African Commission on Human and Peoples’ rights. In Latin America the Inter-American Court of Human Rights is the responsible institution.

The definition of the right to water and states’ obligations

The General Comment No. 15 defines the Right to Water in the following way: “The human right to water entitles everybody to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.” This definition reflects three basic aspects or elements of the human right to water that always have to be fulfilled: availability, accessibility, and quality.

Availability:
This means that there has to be a source where people can get a sufficient quantity of water for their personal and domestic use. This includes water for drinking, cooking, personal hygiene and basic domestic cleaning. Not only should there be enough water to satisfy basic everyday needs but the supply should also be continuous.

Accessibility:
Of course it is of little value if there is a water source but people cannot access it. To ensure physical access the distance to the source of water should not be too great and the way to the source should not be blocked or dangerous to use in any way. Equally important is that people are able to pay the costs related to using the water. If the water is not affordable then physical access might be realized but not economic access.

Quality:
The water must also be of adequate quality. It has to be safe in the sense that it does not threaten the health of those who use it. Furthermore, its taste, odour and colour have to be acceptable. To protect the quality of water supply it is especially important to have adequate sanitation in place since contamination with faecal bacteria is the primary cause of most water-related diseases.

In order to ensure that people can enjoy their right to water, states have to comply with three types of obligations:

Respect:
A state that respects the right to water does not interfere directly or indirectly with the enjoyment of the right to water. This means that the state itself does not destroy people’s access to water, for example by the pollution of water by state-owned companies or by forced evictions.

Protect:
In many cases it is not the state but non-state actors, like private companies or individuals, who deprive people of their access to water. For example, when private companies arbitrarily cut off users from their water supply or when water is polluted or used up by industrial companies. State authorities are therefore obliged to protect each person’s right to water from being harmed by others.

Fulfil:
Besides maintaining access to adequate water, the state furthermore has to actively promote the full realization of the right to water. This includes that adequate water should be provided for persons who lack access to water for reasons beyond their control. Water supply systems and sanitation should be created and improved, especially in rural and poor urban areas, and the right to water should be recognized and implemented in national laws and policies.
States have to implement these obligations and realize the right to water through appropriate policies and legislation at the national level. A national water strategy should elaborate how the right to water is to be effected and include concrete goals, policies and a time-frame for implementation. Crucial for holding states accountable is that victims of violations should have the possibility to claim their right and compensation before a court or other institution when their right to water has been violated.

The realization of the right to water requires management capacities, technological skills and financial resources. Many countries face an enormous task – and have few resources to fulfill it. It takes time to create the needed infrastructure, establish the necessary legal framework, change administrative practices and so on. The Covenant on Economic, Social and Cultural Rights does not therefore oblige states to fully realize the right to water immediately but obliges them to progressively realize it over time.

This concept does not, however, provide states with an easy excuse for doing nothing or too little. It still means that states have to use the maximum available resources for the realization of the right to water and other human rights. They also have to take immediate steps aiming at the realization of the right to water. Under all circumstances, certain “core obligations” have to be met by the state parties. These include that safe access to at least a minimum essential amount of water has to be ensured at all times and that a national water strategy aiming at the realization of the right to water has to be adopted and implemented at once. In short, states have to respect, protect and fulfill the right to water to the highest degree possible at any given moment. If a state is not able to do so, it is obliged to ask for international assistance and other states are obliged to provide this assistance.

Generally speaking, every measure a state takes has to be compatible with the right to water. The General Comment clearly states that the above obligations also apply to the states’ behaviour at the international level. Accordingly, the obligation to respect the right to water means that a state may not threaten or destroy people’s access to water in another country. States also have to protect the right to water by keeping their companies and citizens from compromising the right to water of people in other countries. These so called extra territorial obligations imply that states have the obligation to ensure that their own citizens, as well as third parties like private companies, do not violate human rights in other countries.

International development cooperation should be directed at realizing the right to water. As members of international organizations, each individual state has to make sure that organizations like the International Monetary Fund, the World Bank, and other trade organizations, respect and fully take into account the right to water in their policies.

It is important to keep in mind that the ultimate responsibility to make possible and ensure everybody’s access to adequate water always lies with the state. In case private parties own or control water resources or if they are involved in the management of water supply systems, the state still is obliged to ensure through adequate legislation and monitoring that water be made safe, affordable and accessible for all, and particularly for marginalized and vulnerable communities.

20 General Comment No.15, para. 2
21 General Comment No.15, para. 12
22 General Comment No.15, para. 21
23 General Comment No.15, para. 23
24 General Comment No.15, para. 25, 26 and 29
25 General Comment No.15, para. 34
We speak of a “violation of the right to water” when a state has breached any of its above mentioned obligations towards the right to water. In order to determine whether there has been a violation it is useful to answer two questions:

a) Which aspects of the right to water are affected?

To analyse violations of the right to water, it is important to know the different aspects related to this right. This brochure highlights those questions which point towards the most common problems concerning the realization of the right to water in specific situations. The questions can be seen as a basic starting kit for organizations or groups of affected people who are dealing with situations of possible violations of the right to water.  

The human right to water refers to water to drink, to cook with, and water for personal and domestic hygiene (e.g. washing, laundry). When the right to water is violated, however, usually other needs and rights will be affected, too. For example, water is often needed to produce food, and access to irrigation water for subsistence farming can therefore be an element of the human right to food. Water is also required for the realization of a number of other economic, social and cultural rights such as the rights to health, housing or education. Though it is beyond the scope of this brochure to elaborate on these rights it might be useful to include them into your analysis and argumentation. If the right to water is not mentioned in your national constitution, it might be possible to claim this right through other related rights.

b) Has the state breached its obligations to respect, protect and fulfil the right to water?

Checking AVAILABILITY

It is important that a sufficient quantity of water is always available. The World Health Organization and UNICEF estimate that about 20 litres per person and day is the minimum amount needed for consumption, cooking and some personal hygiene. Note that this quantity is an absolute minimum and is still associated with high health risks. 50 to 60 litres per person per day is what is usually recommended.

- Is there a water source – like a household connection, a borehole or a standpipe – in the immediate vicinity of the home?
- Is the amount of available water restricted? Is there enough clean water not only for drinking but also for cooking and personal hygiene?
- Is water always available or only at certain times?
- Do people often get disconnected, for example, because they cannot pay their bills? Are there alternative sources of water that can be used then?
- Are there often breakdowns of the water supply? How long do they last?

Checking ACCESSIBILITY

Physical Accessibility

The question of how easy or how difficult it is to access a water source affects whether it will be used at all and how much water will actually be used. Even if water is available in sufficient quantity, it is quite possible that people cannot access it. The World Health Organization, for example, has discovered that when people need to spend more than 30 minutes for collecting water, they will probably take home less than the minimum amount of water necessary for consumption and personal hygiene.

- Is a water source within physical reach? Is this true not only at home but also at school and at the workplace?
- Are people spending more than 30 minutes on collecting water every day, including the waiting time at the source?
- Is it safe to go to the source and to use it or do people fear harassment or physical violence?
Affordability (Economic Accessibility)

Access to safe water can also be restricted because people cannot afford to pay the costs related to getting the water from a safe water source. Water is not affordable when people do not have the money to pay for it at all, but also when they can only buy it at the expense of other basic goods and services, like food or housing. High prices or high increases of prices will often make it difficult for the poorest to pay for the needed quantity of water. However, to demonstrate that water is not affordable, it is better to look not only at prices but also at how much money the poorest have to spend on water in relation to their available resources.

- How high is the price for water and connection fees?
- Are there other (hidden) costs of getting water?\(^\text{31}\)
- Have the costs risen a lot recently?
- How much of their income do people spend on water?
- How high are the prices compared to the minimum wage?
- Are prices controlled or set by the public authorities?
- Are there subsidies or similar mechanisms that make the provision with the basic water supply cheaper?
- Is there a free basic water supply for those who are unable to pay?

Checking QUALITY

Safety

Of course, it is most convincing when one can prove via a professional chemical analysis that the quality of the water is below national or international standards\(^\text{32}\) and that it should not be used for consumption and personal hygiene. However, quality tests often are not possible to conduct because they are too costly or for technical and organizational reasons. Nevertheless, even without such an analysis there are some indicators that can help to identify possible problems with water quality.

- Is the water source protected against contamination?
- Is the water visibly contaminated with excrement or waste?
- Do people have to take care of their personal hygiene or of washing their clothes directly at the water source?
- Is the water source also used by animals? Is there protection against animals accessing the water source?
- Is household, agricultural or industrial waste water discharged into the water source?
- Do people have access to safe sanitation like improved latrines or a sewerage system?\(^\text{33}\)
- Is there regular maintenance of the water supply system? Is water quality regularly controlled?
- Does the water get treated to make it fit for human consumption? Do people know how to treat the water to make it safe and do they have the means to do so?
- Does water have to be stored, for example because there is no continuous supply? Is the way in which water gets stored safe?
- Is assistance given to communities relying on non-piped water sources to help them preserve water quality?

Acceptability

Even if water is adequate for human consumption and personal hygiene people may decline to use it or only use it reluctantly because they do not find the smell, taste or appearance of water or water sources acceptable.

- Have people complained about the smell, taste or appearance of the water?

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\(^\text{31}\) Examples of hidden costs are the loss of income caused by long collection times or additional expenses on the treatment of poor-quality water.


\(^\text{33}\) “Improved sanitation includes connection to a public sewers, connection to septic systems, pour-flush latrines, simple pit latrines and ventilated improved pit latrines. Not considered as improved sanitation are service or bucket latrines and open latrines.” (WHO Statistical Information System)
### Checking other HUMAN RIGHTS PRINCIPLES

#### Non-Discrimination

Discrimination, especially of vulnerable or marginalized groups like indigenous people, slum dwellers, women, children, or elderly and sick people, is one of the major causes for human rights violations. The principle of non-discrimination is affirmed in the Universal Declaration of Human Rights and it is reaffirmed in various international covenants relevant for the right to water.\(^{34}\)

When checking the different aspects of right to water violations, one additional question should always be whether certain groups are systematically disadvantaged or treated different than other groups. For example, women and girls are often the ones who are responsible for fetching water and therefore they are often worse affected by problems with the access to water. Special attention has to be paid to vulnerable groups. It is important to design special programmes in order to overcome discrimination and to realize the right to water of these disadvantaged groups. According to General Comment 15 it is a core obligation of the state to “to adopt relatively low-cost targeted water programmes to protect vulnerable and marginalized groups” (para. 37).

#### Participation

People must have a voice when decisions are made that may affect their access to water. This means that they should be able to participate in the relevant decision-making processes. (GC15, para.48)

#### Access to Information

Nobody can effectively participate in political decision making or claim a right if necessary information is not available. (GC 15, para. 48, 49)

#### Accountability and Rule of Law

State authorities have the obligation to respect, protect and fulfil human rights. As duty bearers they should be accountable to rights holders. People who see their human right to water violated should be able to effectively seek redress before a court or similar institution.

- Is access to water denied to some groups because of their race, sex, national or social origin, or other comparable reasons?
- Does the state pay special attention to the needs and rights of vulnerable groups in its water-related policies and laws as well as in its administrative and legal procedures?

- Have people or their representatives been heard before a decision was taken? Did they have a fair opportunity to present their needs and demands? Have they been considered?

- Is information concerning water issues available at all? How difficult is it to get this information? Is information available in languages spoken by the communities and is it easy to comprehend?

- Do state authorities provide information on water? Do they make sure that private companies provide such information?

- Is the tariff system and the negotiation of tariffs transparent?

- Does the state provide education on water issues and sanitation issues, for example in schools or for the broader public?

- Do the people whose right to water has been compromised have access to institutional and legal mechanisms enabling them to seek effective redress which follows proper and fair procedures?

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\(^{34}\) For example the International Covenant on Economic, Social and Cultural Rights (2), International Covenant on Civil and Political Rights (3, 26, 27), Convention on the Rights of the Child (2).
The Importance of Collection Time

The distance between home and water source affects all elements of the right to water.
The World Health Organization has found out that when people need more than 30 minutes to collect water, they will probably collect less water than needed even for one person for consumption and personal hygiene. If people have to wash themselves at the source, this can hurt their dignity and privacy and can also make water contamination more likely. Furthermore, when water is not available at home, there is the danger of contamination at the water source or during transport.
The more time is spent on the daily collection of water, the more the time-factor also affects the possibilities to earn money, to farm land, to take care of children, or to go to school. It is often girls and women who are particularly affected because they are most often responsible for fetching water, especially in Africa and in South Asia.

b) Has the state breached its obligation to respect, protect and fulfil the human right to water?

By using the aspects in the previous part as a check-list you can determine how the right to water and related human rights principles are affected in a certain situation. However, not every situation in which people do not have full access to adequate water can immediately be called a human rights violation. You need to demonstrate that the state has not met its obligation to respect, protect or fulfil the right to water although it could have done so. A breach of such an obligation by a state constitutes a human rights violation.

In the next chapter, examples will show how to determine a breach of a state's obligations. Generally, it helps to distinguish between two situations:

Situation 1: “Destruction of the right to water standard”

Existing access to water has been restricted or has been compromised in some other way.

a) Did the state authorities or state-owned companies or agencies themselves compromise aspects of the human rights standard (that means the access to adequate water)?
   If the answer is YES → Could the state have prevented this?
   If the answer is YES → Violation of the obligation to respect the right to water.

b) Did a third, a non-state party destroy the human rights standard?
   If the answer is YES → Could the state have prevented this?
   If the answer is YES → Violation of the obligation to protect the right to water.

Situation 2: “No progress in the fulfilment of the right to water”

Access to adequate water has been lacking for some time and the state has not taken appropriate measures to address the situation.

• Could the state authorities have done something to improve the situation? Did they have the necessary resources but not use them to this end?
  If the answer is YES → Violation of the obligation to fulfil the right to water

In any situation you should ask whether the state had the means to meet its obligations. If a government is not unwilling or ignorant but truly unable to respect, protect or fulfil the right to water then this is not a violation. However, this is only true if the state actually tried to use the resources at hand as effectively as possible. In many cases fulfilling the obligations to respect and to protect do not cost the state many extra resources. Where people already enjoy access to water, the state is often in a position to keep itself and its agencies from destroying this access. States can, for example, meet part of their obligations by not supporting companies whose activities threaten to destroy the access to water of the population. Denying a licence to such a company does not require enormous financial or technical resources. Not evicting people forcibly from a location where they have established access to water does not claim extra resources from the state either.

States particularly have to demonstrate that they have effectively used all available resources when they fail to fulfil core obligations, like ensuring the supply with the minimum essential amount of water necessary to prevent diseases. Any measures that deliberately reduce people's access to water are generally prohibited and state authorities have to justify any such retrogressive measures and prove that there was no alternative to them. States are at least required to acknowledge the situation and to address it, for example by developing a relief strategy or by asking for international assistance.

35 General Comment 15, para. 41.
36 General Comment 15, para. 34.
Case 1: Newmont’s Ahafo South gold mining project in Ghana

Thousands of people have lost their access to water and land as a result of a gold-mining project in Ghana. The compensation paid to the affected people was insufficient and alternative livelihood programmes have proven ineffective to secure the peoples’ livelihoods. Five thousand people were resettled, many more lost their land. They are no longer able to produce enough food and cocoa which is the major cash crop. Lack of water for their daily needs is one of the main problems.

The US American Newmont Mining Corporation is one of the leading gold producing companies in the world. They are active in North- and South America, Australia, Indonesia and Ghana. The Ahafo project was formalized in December 2003 when they signed an investment agreement with the Government of Ghana. Newmont Ghana Gold Limited intends to develop the Ahafo Project in two phases: Ahafo South (Phase One) and Ahafo North (Phase Two). The total area of the mine of the Ahafo South Project is 2,992 hectares, the combined project of Ahafo South and North will destroy 8,000 hectares of fertile land. The project is located in the Asutifi district, in the Brong Ahafo Region, 300 km north-west of the Ghanaian capital city of Accra.

At the beginning of 2004 a Resettlement Negotiating Committee was created and a Resettlement Action Plan (RAP) was developed. According to the RAP for the Ahafo South project, the total number of households impacted stands at 1,701 (9,575 persons).

The number of affected people will be more than double once the Ahafo North project is developed. In March 2005 the resettlement started and in summer of the same year the press reported on an “artificial famine” that was produced as a result of Newmont’s mining activities in the area. Food production was reduced as families lost their farmland. They also lost their income from cocoa farming while family expenses increased. Compensation was very low and soon spent on daily necessities like food.

In the resettlement camps, residents who once relied on streams next to their farms now have to pay for the water they get from taps that are used by many families. This water is delivered through underground tanks. The water availability in the camps depends on the availability of the electricity that is needed to pump the water into the tanks. Power cuts sometimes last for a week and during that time the people have to walk 4 – 6 kilometres to collect water. When a FIAN delegation visited the area in early September 2005, community members confirmed that the lost access to land and water and inadequate compensation are a major threat to their food security.

The once free flowing river Subri has been cut in two through the construction of a dam. One part of the river is now a water storage facility for the mine and the dry part has been turned into a receptacle for mining waste and residue containing lethal chemicals such as cyanide and heavy metals. This has huge implications for the right to water of the communities living downstream. Since the dam was constructed residents have been deprived of water for their daily needs. Newmont has provided affected villages with plastic water storage tanks, but according to the community members, they are empty most of the time, because the tanks are not filled regularly by the company. The residents further complain that the source of the water that is sporadically provided is questionable. They have no information from where Newmont gets the water that sometimes has an offensive smell and is coloured.

The damming of the river Subri does not only negatively affect the access to water of the downriver communities but it also constitutes a threat to peoples’ health as the stagnant water is likely to increase waterborne diseases. Several communities have been cut off from basic facilities and infrastructure because access roads were flooded. To link up to other communities, residents are now compelled to walk about seven miles using a footpath around the dam. They have appealed to Newmont to be relocated, but this was not granted. Because of the destruction of roads children have dropped out of school. On October 16th 2005, two men drowned when trying to cross the dam.

In January 2006 the International Finance Corporation (IFC), a member of the World Bank Group, approved support for Newmont’s Ahafo project with a loan of 125 million dollars. The German executive director voted against the loan approval and 3 other members abstained. Gold production started in the same year. In order to gain support for the IFC loan, the company had presented a land access and a food programme to support vulnerable individuals and families, and to overcome the negative consequences for the local communities. Field visits by FIAN representatives in May 2006 and April 2007 showed that these programmes have been evaluated without the participation of the affected communities and that they are insufficient in terms of overcoming the problems.

Analysis: Ghana has signed several international agreements which are relevant to the human right to water and other related rights. An important step was the ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) by Ghana in 2000. On the regional level Ghana has ratified for example the African Convention on the Conservation of Nature and Natural Resources of 1968 and signed the revised version of 2003 which addresses the effects of mining on land degradation.

According to article 20 of the Ghanaian Constitution “the State shall resettle the displaced inhabitants on suitable alternative land with due regard for their economic well-being and social and cultural values”. In 2006, a revised Minerals and Mining Act entered into force, including stronger provisions on compensation. Section 74 of
In its General Comment No 15 the UN Committee on Economic, Social and Cultural Rights defines the “failure to enact or enforce laws to prevent the contamination and inequitable extraction of water” as a violation of the obligation to protect the right to water. The diversion of the river Subri can be described as “inequitable extraction of water”. There is also a danger of contamination of surface and ground water. By signing UN Covenant on ESC-Rights, Ghana obliged itself to respect, protect and fulfil the right to water. Protecting this right means that the state must prevent third parties from hindering the individual’s and group’s access to food and water. The state of Ghana has so far failed to adequately protect the right to water of the project-affected communities because it is not preventing Newmont from depriving the affected people of their access to water. It is therefore imperative that both the government and the company restore sustainable access to clean water for the affected communities.

The states who are parties to the International Covenant on Economic, Social and Cultural Rights also have to take into account their state obligations under international law when engaging with international finance institutions like the IFC.37 After NGO lobby-work in Germany the German executive director of the IFC assumed this responsibility and voted against the loan for the Newmont’s Ahafo project.

37 General Comment No 15, para. 36: “States parties should ensure that their actions as members of international organizations take due account of the right to water. Accordingly, States parties that are members of international financial institutions, notably the International Monetary Fund, the World Bank, and regional development banks, should take steps to ensure that the right to water is taken into account in their lending policies, credit agreements and other international measures.”

Case 2: Depletion and contamination of groundwater by a Coca Cola bottling plant in Plachimada, South India

The depletion and contamination of the groundwater caused by the activities at a Coca Cola plant led to a noticeable decline in the quantity of harvested crops and to health problems of the people living in the area. The women responsible for collecting water had to resort to safe water sources several kilometres away from their home.

In 1998–1999, a Coca Cola plant was established in Plachimada in the Palakkad District of Kerala, India, by Hindustan Coca Cola Beverages Private Ltd. (HCBPL). To supply water for production needs about 60 bore-holes were dug on the 40 acres of land that the company had leased and 1,500,000 litres of water were extracted every day. This caused a substantial decrease of groundwater levels in the area and the drying up of wells. In addition, groundwater was also severely contaminated, probably partly because Coca Cola gave some of the plant’s waste as “fertiliser” to local farmers.

In August 2003, the Perumatty Panchayat (village council) decided to cancel the company’s license. In December 2003, the Kerala High Court decided that Hindustan Coca Cola Beverages would have to find alternative sources for its water supply in Plachimada and could only use a limited quantity of water from the bore-holes in the future. The company also had to re-apply for a license from the village council. The court reasoned that the extraction of water was threatening the right to life protected by the Indian constitution and that the underground water belonged to the general public. The Indian government set up a Joint Parliamentary Committee which attested to the harm caused by the factory.

The Kerala State Cabinet completely banned the extraction of water from the bore-holes in February 2004. Coca Cola had to stop its production in Plachimada. On April 7th 2005, however, a division bench of the Kerala High Court decided that Coca Cola could extract up to 500,000 litres of water per day if certain conditions were fulfilled. The Perumatty panchayat (village council) appealed to the Supreme Court of India against this decision and rejected Coca Cola’s application to resume operations in Plachimada because the company did not submit the necessary certificates like the clearance of the Kerala State Pollution Control Board. In a surprising decision on June 1st, the Kerala High Court has ordered that the Perumatty panchayat had to issue a license for Coca Cola and that the company could resume production even if that license was not issued.

The village council therefore renewed Coca Cola’s license for a short duration, specifying strict conditions the company had to meet. At the moment, it is still not clear whether the plant will resume operations or if it will be shifted to another place because the strong protests against the plant continue, while Coca Cola has objected to the short duration of the license and the conditions set down by the panchayat.

Analysis:

The right to water of many community members is affected in this case. Both the quantity and the quality of the water in Plachimada were inadequate for human consumption while the Coca Cola plant was in operation, and other sources of water were too far away to ensure a sufficient supply. According to article 44 of the Indian Constitution “the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties” and the right to life is recognized as a justiciable right in article 21 of the Indian Constitution and it includes the right to water.38 The Supreme Court of India defined that “(the) right to life guaranteed in any civilised society implies the right to food, water, decent environment, education, medical care and shelter.”39 If the activity of the Coca Cola plant is threatening the livelihood, including access to water, of the
There are several distilleries, paper, sugar mills and chemical units. 10,000 people continue to suffer from lack of safe drinking water. Case 3: Meerut in India. Lack of safe drinking water supply in the city of Meerut, Uttar Pradesh

Meerut city is located in the state of Uttar Pradesh, close to the Indian capital city of New Delhi. Jai Bheem Nagar is a slum in Meerut located on the banks of the Kali Ganga River with a population of 10,000 residents who are mostly Dalits. Dalits are socially and economically oppressed in society, in the past they were called “the untouchables”. There is no provision of municipal water available to the residents of Jai Bheem Nagar although they have a Municipal Council, which means that the municipality should provide for basic amenities.

There are several distilleries, paper, sugar mills and chemical units in Meerut and the other towns of Western Uttar Pradesh. The river and ground water are being contaminated due to the discharge of hazardous effluents from these chemical industries, the leaching of pesticides from the nearby agriculture fields and the disposal of biomedical waste from the Government Medical College into the Kali Ganga River. Companies generally do not have common effluent treatment plants (CETP) and sewage treatment plants (STP) to control the pollutants, this leads to the pollution and contamination of the water making it unfit for consumption.

FIAN launched an urgent action in May 2006 urging the government of Uttar Pradesh to take rapid action to fulfil its state obligation to provide safe drinking water to the 10,000 Dalits living in the slum of Jai Bheem Nagar. The State Government of Uttar Pradesh then approved a project to construct an overhead water tank. Such a tank would provide the residents with safe drinking water and they would no longer have to drink and use the polluted underground water. The project was ready to take off, money was sanctioned, a survey was conducted by the government departments to identify the exact location for the water tank and the project was due to be completed by the end of December 2007. However in May 2007 a new state government was elected.

Due to the change of government and administrative delays the project came to a standstill. The situation of the slum residents remains unchanged. They still do not have access to safe drinking water and have no choice but to consume polluted water of bad colour and with a foul odour. The water is contaminated with heavy metals like chromium, cadmium, lead, iron and mercury many times more than the desirable limits. The slum dwellers claim that the consumption and use of the polluted drinking water has caused cases of diarrhoea and skin diseases amongst the population. Women suffer the most as they have to travel far distances to fetch potable water for daily uses. Children also suffer as they are the main victims of recurrent water borne infections. However, following another intervention of FIAN International, implementation of the project finally started in May 2008.

Case 4: Price increases after water privatization in Cochabamba, Bolivia

Cochabamba is the third-largest city of Bolivia. In the past few years it has grown rapidly due to the migration of many from the rural areas to the city. In 1999, about 40% of the 600,000 living in Cochabamba did not have access to safe water and sanitation. Until then, the municipal company SEMAPA was the provider for water and sanitation services of the city. In September 1999, the Bolivian government gave a 40-year concession to a private consortium (Aguas de Tunari). The government had been pushed heavily by the World Bank to do so as a condition for further assistance in the water sector and for further debt relief.

In December 1999, directly after privatization, water prices were increased considerably. The higher tariffs were introduced partly in order to cover the costs for the so-called Missicuni project. The project included the construction of a tunnel to transport water to the city. It was clear that there were much cheaper alternatives to this tunnel and that financing it would unnecessarily drive up water prices. In addition, the tariffs had to be increased because they were

The negotiations about Aguas de Tunari. Some people suddenly received bills that were 35% to 50% higher than before and in some cases even more.

The people of Cochabamba responded with protests and strikes and refused to pay. When the Bolivian government declared a state of emergency and sent military forces trying to stop the protests with violence, the situation escalated. A 17-year old boy died and more than 100 people were injured.

In the end, however, the people succeeded. They made the government roll back the higher rates and suspend the contract with Aguas de Tunari. The law which had provided the framework for the concession with Aguas was changed in April 2000. The company filed a lawsuit against Bolivia before the International Centre for Settlement of Investment Disputes. However, in 2006, the government of Bolivia and Aguas de Tunari reached an agreement to drop any financial claims against each other.

Analysis:
In Cochabamba, even before privatization some people spent more than 20% of their monthly income on water. The sudden and high increases in water bills were above what poor families in Cochabamba could afford without spending less on other necessary goods and services.

The negotiations about Aguas de Tunari’s contract were not transparent. Though Aguas de Tunari’s offer did not meet the terms of the tender, negotiations were initiated. It appears that it was the Bolivian government authorities which demanded that the tariffs should cover the questionable Misicuni project and the repayment of SEMAPA’s debt.

Both Aguas de Tunari and the World Bank claimed that they objected to the Misicuni project because it was much more expensive than alternative projects. However, there is clear evidence that the World Bank strongly recommended that there should be no public subsidies to avoid high tariff increases. The Bank wanted the tariffs to “reflect the full cost of provision of the Misicuni multipurpose project.”

It was the Bolivian government that in the end signed the contract with Aguas de Tunari in September 1999. By doing so, it did not respect people’s right to water, especially by insisting on the tariffs to recover earlier costs as outlined above. The government is also responsible for the human rights violations by its military forces during the protests.

It was reported that the World Bank had employed considerable pressure to make the Bolivian government privatize water services in Cochabamba in the first place. Furthermore, during the negotiations it urged the government not to make use of public subsidies. The World Bank is an international organization and not a State bound by the Covenant on Economic, Social and Cultural Rights. However, the General Comment No. 15 also stresses that, even though non-state actors are not bound to the Covenant like states, the international financial organizations in particular should be aware of their responsibility for the realization of the right to water. Furthermore, the member states to the World Bank, who have signed the Covenant on Economic, Social and Cultural Rights are obliged to make sure that the World Bank policies comply with human rights standards.

Case 5:
The right to water of 20 000 persons is threatened by the Baba dam project in Ecuador

The Baba Dam Project in the Ecuadorian province of Los Ríos is expected to have serious social and environmental impact on the whole of the river Baba basin and is likely to affect the right to water of more than 20,000 women and men, farming, fishing communities and indigenous people settled in this basin.

In October 2004 the Ecuadorian government declared the Quevedo – Vinces Dam Project that is generally known under the name “Baba Project” a national priority. In January 2006, the project was awarded to Consorcio Hidroenergético del Litoral (CHL) made up of local investors and the Brazilian construction company Odebrecht. The Ecuadorian Ministry of Environment gave the company Odebrecht the environmental license to construct the Baba dam, even though the environmental impact study was incomplete and contradictory, and the communities affected by this project had not been consulted beforehand. In identifying the people affected by the Baba project the environmental impact study only involved those people directly affected by the flooding. All those people living on the riverside and depending on the river water for drinking, irrigating their fields or fishing were not taken into account.

Even though this project has been qualified as “multipurpose”, its main objective is to transfer waters from the Baba basin to the dam Daule – Peripa that was finished in 1990. Because of technical mistakes the Daule-Peripa dam failed to deliver the foreseen amount of energy. This dam project had very negative social and environmental consequences and the approximately 3000 affected people have never been compensated. Due to the lack of a serious study that takes into account the environmental and social effects in the entire Baba basin, the construction of the Baba dam is expected to have the same negative effects as the Daule-Peripa dam.

Peasants, small farmers, fishing communities and ancestral owners of the Baba basin (Quevedo – Vinces) are affected by the construction of the Baba dam. They are convinced that the Baba Project threatens their right to access land and water and are therefore demanding, as part of COORDENAGUA (Coordinadora para la Defensa de la Vida y la Naturaleza), the cancellation of the construction and the final closure of this project.

40 Quoted in Lobina, Emanuele (2000): Cochabamba – water war. (Public Services International Research Unit PSIRU; Focus (PSI Journal), Volume 7, Number 2.)
In 2007 the struggle to stop the construction of the Baba dam project finally had an impact. The Minister of Energy and Mines asked for the withdrawal of the license for the construction of the hydroelectric plant and ordered that the project be revised with regard to the financial, environmental and social aspects. He took this decision after visiting the village of Patricia Pilar, a centre of resistance against the construction of the Baba dam. During his visit he could confirm technical, legal, environmental and economic irregularities, quite apart from the human rights violations coming from this project. The Minister described this project not as “a multipurpose, but as a multiabuse project”. Moreover, President Correa ordered a comprehensive audit of the Daule Peripa project be carried out to remedy the damages caused.

Nevertheless the only reaction of the government concerning the criticism raised by the Minister of Energy and Mines on the Baba project was to change the private character of the project into a public one by transferring the ownership of the project to the state. In September of 2007 the government of Rafael Correa adopted decree 608 that again declares the project a national priority and transferred all responsibilities to the CEDEGE (Comisión de Estudios para el Desarrollo de la Cuenca del río Guayas), the government body that is in charge of the construction of the infrastructure in this region. According to the latest statements by the government, it intends to finalize the dam project in the coming months. At the end of 2007 the CEDEGE told NGO representatives that the plans for finalizing the project were already finished but not yet public.

It is very questionable as to how the final design of the project could follow human rights standards without the existence of a reliable environmental study that indicates the exact number of affected people. Fishing is a vital component of the food habits of the families living on the shores of the Baba River. Construction of the Baba project would diminish or eliminate the fisheries and thus have a very negative impact on the right to food of these families. The lower water volume caused by the dam construction is expected to have negative consequences on agriculture, since soil would dry out and so food production would diminish due to the lack of sufficient water. Moreover, the self-purification capacity of the river would diminish. The subsequent river pollution is also likely to have negative impact on the water quality of the wells used by the communities living near the river. The affected people will lose their access to water for fishing, irrigation, drinking and for their daily needs.

Analysis:
In asking to withdraw the permit for the construction of the hydroelectric plant and in ordering an integral revision of the project, the Minister of Energy and Mines as representative of the government took a first step to respect and protect the rights of the affected people. According to article 88 of its constitution Ecuador is obliged to make sure that any decision that could have an impact on the environment corresponds with the criteria that the community be adequately informed and its participation be ensured. This was not adequately ensured before the license for the construction of the hydroelectric plant was awarded. If the government proceeds with the project without considering all environmental and social consequences, and without commissioning reliable studies and consultations involving all the affected people, Ecuador violates the right to water and the other human rights of the affected people.

The State of Ecuador is a state party to the International Covenant on Economic, Social and Cultural Rights and is therefore duty-bound under international law to respect the people’s existing access to water and to protect their rights by preventing third parties (as the company Odebrecht and the CHL) from hindering people’s access to water resources that are essential for their life. The Covenant further states that “in no case may a people be deprived of its own means of subsistence” (article 1, 2), but this will be the case if these people lose their fishing grounds and access to irrigation water to produce food.

Case 6: CEDHA wins lawsuit against Municipality and State Province in Argentina

In a court action successfully filed by the Center for Human Rights and Environment (CEDHA) in Argentina, the judge has ruled in October 2004 that the Provincial State was responsible for violations of the rights to a healthy environment, to an adequate standard of living, to health and of the human right to safe drinking water. The right to safe drinking water was explicitly recognized in the ruling which cited both the International Covenant on Economic, Social and Cultural Rights and General Comment No. 15 on the right to water.

In the city of Córdoba, Argentina, several outlying poor neighbourhoods had been suffering for years from the lack of access to the public water distribution network and from severe contamination of their local water sources. One of the reasons for the contamination was the public sewage treatment facility which lacked maintenance and capacity leading to daily spillage of untreated sewage.

Since the Argentine Constitution guarantees the right to a healthy environment and incorporates several international human rights instruments, like the Covenant on Economic, Social and Cultural Rights, CEDHA jointly with four community members filed an action against the Municipality and the Province State of Córdoba. With the ruling, the Municipality was ordered to ensure the proper functioning of the treatment facility and the Province State had to provide 200 litres of drinking water daily to the four claimants until their access to the public water service was effected. In December 2004, the Provincial State started work directed at providing fresh and safe water for the affected communities (see picture). The Municipality has presented a plan for the rehabilitation of the sewage infrastructure. Furthermore, the Municipality Congress has passed a law which ensures that as opposed to previously, all revenue now made from sewage and sanitation taxes is to be invested exclusively in the sewage system.

41 “Toda decisión estatal que pueda afectar al medio ambiente, debe contar previamente con los criterios de la comunidad, para lo cual esta será debidamente informada. La ley garantizará su participación.” (Political Constitution of Ecuador: Art. 88)

At the local and national level

To successfully fight human rights violations you will almost always need public support and attention. Raising public awareness of a human rights violation can put considerable pressure on the authorities to act in favour of an affected group. If possible you should try to pass on information to journalists, newspapers and other media. The local media might not offer nation-wide press coverage but is often more interested in reporting about local struggles. Having available a handy summary of the situation, as well as providing additional information, photos etc., can help when approaching the media and other groups. In many situations, public events or letter campaigns can encourage people to participate in supporting the victims and direct the authorities' attention to your case.

If possible seek to speak with the responsible authorities directly. If it has not been brought to their attention yet, you can inform them about the situation and the demands of the affected people. Ask them to act according to their human rights obligations and refer to the National Human Rights Commission (if any) and to corresponding national human rights standards.

In many countries there are national human rights commissions or ombudspersons to which complaints concerning human rights violations can be presented. Appealing to national courts can also be an option. Possibilities to do so, however, depend greatly on the national legal system and on how the right to water or related human rights are implemented in national laws. It may also be a costly and long-term undertaking and usually requires legal expertise.

In any case it is advisable to join forces, form networks and cooperate with other civil society organizations. Partnerships will strengthen your position in relation to official authorities and can supply you with additional resources and contacts. In many countries specialized human rights organizations are active and can bring in their expertise on national and international human rights law and on the possibilities to address violations in the specific national context.

At the regional and international level

Human rights commissions also exist at the regional level like the Inter-American Commission on Human Rights and the African Commission on Human and Peoples’ Rights. One very successful example of national and international NGOs bringing a case before such a regional human rights commission concerned the environmental pollution through oil exploitation in Ogoniland, Nigeria. In 2001, the African Commission on Human and Peoples’ Rights found that the Nigerian government had violated several human rights and ordered that the government should compensate the Ogoni people.

At the level of the United Nations, the Committee on Economic, Social and Cultural Rights monitors the implementation of the Covenant by the states every five years. NGOs are invited to submit information to the members of the Committee and to the Special Rapporteurs at any time. However, NGOs with an official consultative status at the United Nations – like the Centre on Housing Rights and Evictions (COHRE) and FIAN International – have more effective possibilities of presenting information to the Committee. As already mentioned in chapter 2, they can hand in and present written “parallel reports” about the human rights situation in certain countries when the corresponding states have to submit their official implementation reports. These groups cooperate with numerous civil society organizations around the world and can certainly support you in using the UN Committee mechanisms effectively for your aims.

The Universal Periodic Review mechanism also offers a possibility for civil society to provide the OHCHR with parallel information on the human rights situation of the country that is reviewed (see: chapter 2). If you have reliable information that should be included in this parallel information you can either contact NGOs that are engaged in this process or contact the OHCHR for further information on these procedures.

The UN Special Rapporteurs that are working on water related rights (e.g. food, health, education) can be contacted directly by individuals or groups. The rapporteurs write thematic and general reports on the right included in their mandate and submit them to the UN Human Rights Council in Geneva or to the General Assembly in New York. They also conduct country missions in order to investigate the realization or non-realization of the right they are in charge of. They further write urgent appeals and other communications to address governments or third parties in case of human rights violations. The UN Special Rapporteur on the right to food is officially mandated to include issues of drinking water in his work.

Much like a Special Rapporteur, the mandate for an Independent Expert on water and sanitation that was recently established by the UN Human Rights Council will provide an important contact point for civil society groups wishing to contribute to the collection of best practices and the clarifications of human rights obligations related to water and sanitation.

How churches can help

“Water is a symbol of life. The Bible affirms water as the cradle of life, an expression of God’s grace in perpetuity for the whole of creation (Gen 2:5ff). It is a basic condition for all life on Earth (Gen 1:2ff.) and is to be preserved and shared for the benefit of all creatures and the wider creation. Water is the source of health and well-being and requires responsible action from us human beings, as partners and priests of Creation (Rom 8:19 ff., Rev 22). As churches, we are called to participate in the mission of God to bring about a new creation where life in abundance is assured to all (John 10:10; Amos 5:24). It is therefore right to speak out and to act when the life-giving water is pervasively and systematically under threat.” Statement on Water for Life, 9th Assembly of the World Council of Churches (February 2006)

Christian churches as well as other faiths can play an important and special role in promoting the human right to water and universal access to water and sanitation. A shared responsibility to care for creation and for one another, and most particularly for the poor is central to Christian beliefs. Churches are in a unique position to highlight the moral and spiritual dimension of the water crisis both to the authorities and to communities.
Churches can give important spiritual and practical support to communities and civil society in both the creation of sustainable access to water and sanitation, and in holding governments accountable for their obligation to uphold the human right to water.

Drawing upon their rich experience in capacity building in communities and providing access to water and sanitation to the most vulnerable, the churches can also contribute to the identification of best practices, and lobby governments to promote approaches that give precedence to water for life over water for profit.

The Ecumenical Water Network provides a common platform for churches and church-related organizations who share a concern for the preservation of the water resources entrusted to us and for the just distribution of water. The network was formed to ensure that the Christian witness be heard in the present debate on water issues, to raise the awareness within the churches of the urgency of the issue, and to engage as an ecumenical community in common action at all levels from the local to the international.

A final checklist: How to fight violations of the right to water

**COLLECT INFORMATION** about your case from the affected people, government authorities, newspapers, scientific institutions etc. It might also be helpful to include information about government policies on water and on the legal framework concerning water in your country. When arguing your case, you should name your sources of information whenever possible. Of course all important documents that may serve as proof for your case should be kept, including letters to and from state authorities, press articles, photos and so on.

**ANALYSE** your case as shown in chapter 4 of this brochure. Show in your argumentation where and how the right to water has been violated and which state authorities are responsible for this violation.

**FIND ALLIES** who you can cooperate with at the national and international level. Try to find out whether other groups are dealing with similar situations or do human rights work in your region. NGOs at the international level like COHRE, FIAN and Bread for the World usually work together with many other organizations and experts around the world and might be able to arrange contacts for you.

**ALERT** the media and pass on information to them. Arrange public events to make people aware of your struggle.

**CONTACT THE AUTHORITIES** who are responsible, reminding them of their obligations and asking them to react in an appropriate way to the violation.

**LOOK FOR LEGAL ADVICE** to find out whether there are judicial or other remedies accessible in your country or at the international level where you can present your case. Use the knowledge of other civil society organizations who have already used these instruments.

**FIND OUT MORE** about economic, social and cultural rights and especially the right to water. See Chapter 6: References and further information.

**CONSIDER** whether you would like to promote the recognition and implementation of economic, social and cultural rights in general, for example, by raising public awareness of them through public events and lectures, by arranging human rights trainings for activists, lawyers and state officials, or by demanding that your government implement them in national legislation.

**DOCUMENTING CASES** Reliable and comprehensive information is the foundation of any successful human rights work. It is useful to keep a case documentation, which summarizes the results of your research and analysis. A case documentation should include:

**A** Basic description of the case:
- Exact location, origin and number of affected people;
- Description of events and actions that have lead to the current situation;
- Description of the roles and positions taken by the different state authorities;
- Necessary background information concerning the political, social, economic, ethical and legal context.

**B** Summary of the analysis of the violation
- Affected aspects of the right to water (availability, accessibility, quality, discrimination, ...);
- Type of breached obligations (respect, protect, fulfil)

**C** List of contacts and important sources of information, documents, etc.

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43 For more information, see www.cohre.org/litigation
References


Non-governmental organizations

Blue Planet Project, Council of Canadians http://www.blueplanetproject.net

Bread for the World (in German, English, Spanish) http://www.menschen-recht-wasser.de

Centre on Housing Rights and Evictions (COHRE) http://www.cohre.org/water

Ecumenical Water Network (EWN) http://water.oikoumene.org

FIAN International http://www.fian.org

Food & Water Watch http://www.foodandwaterwatch.org

International Organizations and Human Rights Bodies

 – List of Human Rights Bodies: http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx
 – Special Rapporteurs:
   • Country mandates: http://www2.ohchr.org/english/bodies/chr/special/countries.htm
   • Thematic mandates: http://www2.ohchr.org/english/bodies/chr/special/themes.htm
 – For all individual communications to OHCHR, including to Special Rapporteurs: http://www2.ohchr.org/english/bodies/chr/special/contact.htm
 – Universal Periodic Review: http://www2.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx
 http://www2.ohchr.org/spanish/law/cescr.htm (spanish)
 http://www2.ohchr.org/french/law/cescr.htm (french)
 – General Comments of the UN Committee on Economic, Social and Cultural Rights: http://www2.ohchr.org/english/bodies/cescr/comments.htm


World Health Organization (WHO) on water and sanitation http://www.who.int/water_sanitation_health/en


Regional Human Rights Bodies

African Commission on Human and People’s Rights, Gambia: http://www.achpr.org; E-mail: achpr@achpr.org

Inter-American Commission on Human Rights, United States: http://www.cidh.org; E-mail: cidhoea@oas.org
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**Ecumenical Water Network**  
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