



# General Assembly

Distr.: General  
13 September 2011

English only

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## Human Rights Council

### Eighteenth session

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by Corporate Accountability International, a non-governmental organizations in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 September 2011]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## Response to U.S. Mission Report\*\*

We commend the independent expert for her thorough review of the challenges to ensuring the human right to water and sanitation in the United States, and support her call for a national water and sanitation policy and plan of action. To fully realize and sustain the human right to water and sanitation, it is essential that the U.S. engage in a process of policy reform and harmonization to put human rights and marginalized groups first, address gaps in regulation and implementation, minimize inequality and de facto discrimination, protect water resources, and bolster data collection and rural water quality oversight. We support communities that have been impacted by corporate usurpation of water resources, including water bottling, and look to the U.S. government to ensure that these unjust and unsustainable practices are stopped.

The report recognizes the need for adequate investment in planning and implementation, which in the U.S. includes a serious need for federal funding increases for infrastructure. Lack of adequate financing is a major contributing factor to U.S. water and sewer system failures.<sup>1</sup> Since 1978, the portion of municipal sewer infrastructure funded by the federal government has declined dramatically from 78 percent to 3 percent.<sup>2</sup> States and localities have been unable to fill this shortfall, leading to extensive deterioration of essential infrastructure. This steady cutback in federal funding has also forced utilities to raise rates dramatically, endangering the human right to water and sanitation especially for low income communities.<sup>3</sup> For example, Washington, D.C. needs a \$3.8 billion investment over the next ten years, and without adequate federal support, the city raised rates 17 percent in 2010.<sup>4</sup> With nearly 18 percent of D.C. residents living in poverty in 2009,<sup>5</sup> these escalating water rates could restrict people's access to safe drinking water.

We are concerned that instead of prioritizing the human right to water and sanitation and dedicating needed federal funding, parts of the U.S. government are increasingly promoting "market solutions" such as "full cost pricing" in ways that undermine these human rights for the most marginalized. The U.S. Environmental Protection Agency is now advocating for full cost pricing, backed by private corporations that stand to gain from higher water rates and reliance on ratepayers for investments.<sup>6</sup> In the past, these aggressive rate increases

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\*\* Food & Water Watch, an NGO without consultative status, also shares the views expressed in this statement.

<sup>1</sup> Food & Water Watch. "Clear Waters: Why America Needs a Clean Water Trust Fund." October 2007 at p. v.

<sup>2</sup> Kirk, Ken. National Association of Clean Water Agencies. "Bridging the Funding Gap: The Need for Greater Federal Investment in Wastewater Infrastructure." Presentation. Santa Fe, NM. July 21, 2007 at p. 10; U.S. Environmental Protection Agency. Available online: [http://www.acec.org/advocacy/committees/pdf/eec0707\\_kirk.pdf](http://www.acec.org/advocacy/committees/pdf/eec0707_kirk.pdf).

<sup>3</sup> "2009 NACWA Service Charge Index Survey." National Association of Clean Water Agencies, Washington, D.C., January 2009. Available online: <http://www.cleanwatercentral.org/%5Cdocuments%5C2009%20NACWA%20Index.pdf>.

<sup>4</sup> District of Columbia Water and Sewer Authority. "Capital Improvement Projects Overview." Available online: [http://www.dcwater.com/investor\\_relations/CIP\\_sections/2011/Capital\\_Improvement\\_Projects\\_Overview.pdf](http://www.dcwater.com/investor_relations/CIP_sections/2011/Capital_Improvement_Projects_Overview.pdf); District of Columbia Water and Sewer Authority. 2010 Rates Presentation. June 9, 2010 at 22 and 26.

<sup>5</sup> U.S. Census Bureau. 2006-2008 American Community Survey.

<sup>6</sup> U.S. Environmental Protection Agency. "Water & Wastewater Pricing – Introduction." Available online: <http://water.epa.gov/infrastructure/sustain/Water-and-Wastewater-Pricing-Introduction.cfm>.

have resulted in residents being unable to pay, and having their water cut off.<sup>7</sup> This is a troubling trend that threatens the human right to water in both urban and rural communities and will exacerbate the de facto discrimination highlighted in the Rapporteur's report.

Water privatization in the U.S. has too often led to human rights violations, and has consistently undermined democratic water governance, accountability, and transparency. While privatization and the right to water may not be theoretically mutually exclusive the Rapporteur's report shows some examples of how the myriad forms of privatization have violated the human right to water through cutoffs, price hikes, contamination, corporate withholding of information or misleading the public, and failing to fulfil obligations. Additionally, these practices disproportionately impact low income communities and those with fixed incomes.

For example, in 2004, Aqua America took over the water and wastewater system in Neuse River Village, N.C. Within a year, Aqua America had cut off water service to more than half of the 130 households.<sup>8</sup> Dozens of families were forced to fill jugs of water at their neighbours' faucets for daily cleaning and cooking, use the nearby woods as a bathroom, and some were evicted from their homes. Many families were paying more for water than for rent.<sup>9</sup>

In another case in Toms River, N.J., a federal and state investigation linked drinking water served by United Water Toms River, an investor owned water utility, to childhood cancer.<sup>10</sup> The state later determined that United Water was also manipulating drinking water tests to conceal potential quality violations.<sup>11</sup> These cases exemplify the broader problems with water privatization in the U.S. and the need for better regulation and government oversight.

U.S. foreign assistance should also support the progressive realization of the human right to water and sanitation in other countries. Greater transparency and disclosure, as well as civil society and public involvement is needed in setting priorities for foreign aid to ensure that, for example, the strategy and criteria USAID is developing to target areas of greatest need emphasize community ownership of water and sanitation projects, non-profit structures and locally-sourced technologies.

Finally, U.S. engagement with international financial institutions should be designed to promote and support the human right to water and sanitation. The World Bank Group remains the "largest external source of financing for water management in developing countries",<sup>12</sup> but continues to push water privatization and corporatization on governments through advisory and technical services, direct investments that empower transnational water corporations, restructuring public utilities, and even through donor conditionalities.<sup>13</sup>

<sup>7</sup> Food & Water Watch, 2007 at p. v.

<sup>8</sup> Ovaska, Sarah. "State probes cutoffs." The News & Observer. April 29, 2005; Ovaska, Sarah. "Water cut off at trailer park." The News & Observer. February 21, 2005.

<sup>9</sup> Food & Water Watch. "Aqua America: Strategies of a Water Privateer." September 2008. Available online: <http://documents.foodandwaterwatch.org/AquaAmerica.pdf>.

<sup>10</sup> New Jersey Department of Health and Senior Services. "Volume 1: Summary of the Final Technical Report." Case-control Study of Childhood Cancers in Dover Township (Ocean County), New Jersey. January 2003 at p. 10-11.

<sup>11</sup> State of New Jersey Department of Environmental Protection. [Press release]. "DEP fines water systems, licensed operators for fraudulent monitoring and reporting." May 10, 2006.

<sup>12</sup> Zoellick, Robert. Remarks on World Water Day 2011. Press release. Available online: <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:22865762~pagePK:34370~piPK:34424~theSitePK:4607,00.html>.

<sup>13</sup> Corporate Accountability International. "The Making of a World Water Crisis." 2011.

Restructuring often means forcing borrowing countries to adopt cost-recovery regulations that increase household tariffs and lay the groundwork for corporate takeover.

In particular, the IFC plays a key role in not only directly purchasing equity shares in water transnationals, but also advising governments to procure their services.<sup>14</sup> We found that from 2000 to 2008, 80 percent of the IFC's water loans went to the four largest transnational water corporations,<sup>15</sup> further exacerbating power and resource inequalities between the private and the public sector.

Currently, many states lack the capacity to adequately protect and fulfil the human right to water and sanitation, making it both easier and more dangerous for them to succumb to the pressures of transnational corporations, IFIs, and donors, by delegating their key duties to the private sector.

In conclusion, we urge the U.S. government to:

- Commit the necessary resources, financial and otherwise, to create and implement a national plan to respect, protect and fulfil the human right to water and sanitation in the United States that:
  - Centers around human rights, prioritizing basic needs and ecological integrity
  - Incorporates the forthcoming results of U.S. Geological Survey surface and groundwater mapping statistics
  - Includes affordability standards, effective remedies for discrimination, and accountability mechanisms
  - Is based on a participatory, inclusive, and transparent process
  - Safeguards against corporate interference in the planning and implementation process
- Address water holistically by including other sectors with impact on water in policy reform and international commitments
- Adopt effective regulations to prevent harm to water resources through contamination and overuse, and provide accountability
- Bolster support for public, non-profit water systems through programs and policies that boost public funding
- Take measures to increase public confidence in, and awareness regarding the importance of, public water systems including by phasing out governmental spending on bottled water
- Take steps through Congressional action to improve regulation and accountability of the bottled water industry
- Ensure that the activities of IFIs support the realization of the human right to water and sanitation
- Ensure that foreign aid, donor activities, and other international activities prioritize and contribute to the progressive realization of the human right to water and sanitation

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<sup>14</sup> Ibid.

<sup>15</sup> Food & Water Watch. "Dried Up, Sold Out." March 2009 at p. 12.

We urge the Human Rights Council Working Group on Transnational Business, etc to:

- Conduct a study of the impacts of hydraulic fracturing on water resources
  - Develop recommendations for safeguarding UN water policymaking from corporate interference, based on the Joint Inspection Unit report on the Global Compact<sup>16</sup>
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<sup>16</sup> Fall, Papa Louis and Mohamed Mounir Zahran. Joint Inspection Unit. “United Nations Corporate Partnerships: The Role and Functioning of the Global Compact.” (JIU/REP/2010/9). 2010