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**Right to Water
and Sanitation**

**IN THE UN DECLARATION ON
THE RIGHTS OF PEASANTS AND
OTHER PEOPLE WORKING IN
RURAL AREAS**

This briefing note on the right to water and sanitation is part of a series of briefings published by FIAN International to feed into the negotiations on the draft UN Declaration on the Rights of Peasants and Other People Working in Rural Areas.

The series of briefings covers the following topics: states' obligations, the rights to sovereignty over natural resources, development and food sovereignty, rural women's rights, the right to food, the right to a decent income and livelihood, the right to land and other natural resources, the right to seeds and the right to biological diversity and the right to water and sanitation.

The briefings are available on our website <http://www.fian.org/>



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1. WHAT ARE THE RIGHTS TO WATER AND SANITATION?

Today, the rights to water and sanitation¹ are formally recognized human rights derived from Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) – the right to an adequate standard of living – contained in legally binding human rights treaties.² Article 24 of the right to water and sanitation of the Draft UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (hereafter referred as Article 24 of the Draft Declaration) defines the rights to water and sanitation as the “human right to safe and clean drinking water and sanitation, that is essential for the full enjoyment of life and all human rights and the right to water for farming, fishing, livestock keeping and securing other water related livelihood” (Article 24, paragraph 1). This definition underlines two crucial contents regarding the rights to water and sanitation. Firstly, the rights to safe and clean drinking water and sanitation are essential for the full enjoyment of life in dignity and are interconnected with all human rights. Secondly, it acknowledges the complex relationships peasants and rural population have with water. Water adequate in quality and sufficient in quantity is essential for farming; water is equally indispensable for fishing grounds, for livestock needs, and water is an important resource and sustenance base for forest dwellers and other rural communities. Water plays a key role in the lives of peasants³ and rural population, and thus access to water for livelihood is just as equally vital as access to drinking water.

In the face of increased extraction of ground water, diversion of rivers, and irreversible pollution of water due to large-scale industrial agriculture, extractive industries and large-scale dam construction for hydropower, local rural populations are facing dispossession and eviction from their traditional land and territories and thus losing access to and control over national resources such as land and water. It also has disastrous consequences on



ecosystems and agro-pastoral food production systems. The privatization of water and water distribution services and management – both for drinking and irrigation purposes – as well as the increase of water prices, deprive poor rural communities of their vital water resource. Often, private actors’ involved (national, international or multinational corporations) are backed by states.⁴ In the face of power imbalances, and resource grabbing as consequences thereof, peasants and other people working in rural areas require special protection and measures to safeguard their existing access to water resources. Article 24 thus spells out additional rights for peasants and other people working in rural areas which must be guaranteed by states. These are equitable access to water and water management systems based on existing customary and community-based water management systems, freedom from arbitrary disconnections, and freedom from contamination of water supplies and the right to water supply systems and sanitation facilities that are available, of good quality, affordable and physically accessible, non-discriminatory and acceptable in cultural and gender terms.

Paragraph 2 also lays down conditions which must be guaranteed by states in order to realize the rights to water and sanitation for peasants and other people working

1 The terminology used hitherto in the adopted resolutions by the United Nations General Assembly and Human Rights Council is the human right to safe drinking water and sanitation. The term “safe drinking water” refers to water used for the purpose of drinking, cooking and personal hygiene. This is ambiguous and also misleading, because ‘drinking water’ is commonly understood to cover water solely for the purpose of drinking. Furthermore, the right to water is referred in singular in these resolutions. However, the Committee on Economic, Social and Cultural Rights as well as the Special Rapporteur on the human right to water and sanitation refer to the right to water and the right to sanitation as two distinct rights with equal status within the human right to an adequate standard of living. Although the Draft Declaration uses singular form to refer to the right to water and sanitation; this briefing will use the plural form, also in line with the latest Resolution (A/RES/70/169) on the human rights to safe drinking water and sanitation adopted by the General Assembly on 17 December 2015.

2 With the adoption of UN Resolution (A/RES/64/292) on August 3, 2010, the General Assembly of the United Nations formally recognized the human rights to safe and clean drinking water and sanitation. Two months later on October 6, 2010, the Human Rights Council adopted by consensus Resolution A/HRC/RES/15/9, which re-affirmed the prior recognition of the right to safe drinking water and sanitation by the General Assembly and clarified the legal basis of the right, stipulating that “[t]he human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity.”

3 For example, smallholder farmers who comprise around fifty percent of the world’s hungry today are denied sufficient access to productive resources such as land, water, and seeds and thus cannot produce enough to feed themselves adequately. See Final study of the Human Rights Council Advisory Committee (on the advancement of the rights of peasants and other people working in rural areas), UN doc. A/HRC/19/75, 24 February, §11.

4 For more information, see Kay, S. & Franco, J. C. (2014): *The Global Water Grab: A Primer* (Amsterdam: Transnational Institute).



in rural areas. These include essential amount of water that is sufficient and safe for personal, domestic, and productive use;⁵ non-discriminatory access to drinking water and sanitation, especially for disadvantaged or marginalized groups (e.g. nomadic pastoralists, plantation workers, migrants irrespective of their legal status, and persons living in irregular/informal settlements);⁶ physical and economic accessibility of water and water facilities and services also for productive uses;⁷ personal security when accessing, especially of girls and women;⁸ equitable distribution of water;⁹ and protection of water resources from overuse and contamination.¹⁰ Access to water particularly in customary and community-based water management must be respected, protected, and fulfilled by states, thereby preventing third parties from interfering with the enjoyment of the right to water and prioritizing water use for human needs, small-scale food production, ecosystem needs and cultural use before any other uses.¹¹ These prerequisites are also reflected in General Comment 15 on the Right to Water¹² (hereafter referred to

as General Comment 15) under the core obligations of the right to water,¹³ however, clearly expanding the water uses beyond personal and domestic to productive uses¹⁴ in line with the core element of the rights to water and sanitation spelled out in paragraph 1 of Article 24.

Water is also at the heart of ecosystems on which not only food sovereignty but the entire humankind's present and future generations depend. Therefore, states must protect and ensure the regeneration of watersheds, aquifers and surface water sources such as wetlands, ponds, lakes, rivers and streams. Finally, Article 24 calls for cooperation and engagement with upstream and downstream neighboring states with an aim to jointly safeguard the right to water of peasants and other people working in rural areas.¹⁵

The rights to water and sanitation in the Draft Declaration and as well in general contain both freedoms and entitlements. The freedoms include the right to preserve access to extant water supplies, including also traditional water supplies, and the right to be free from any interference such as arbitrary and illegal disconnections, pollution of water resources, and discrimination in access to water on the basis of legal status. The entitlements include, for example, access to an essential amount of water to conduct life in dignity which includes drinking water and water necessary for domestic and productive uses and for livelihood; sanitation services and facilities, physical and economic access to water facilities and services that are affordable and based in customary and community based water management systems for peasants and people working in rural areas; and participation in water- and sanitation-related decision-making at the national and community levels.¹⁶

Furthermore, the rights to water and sanitation are not only essential for the enjoyment of a wide range of human rights, it is also inextricable for the realization of other rights mentioned in the Draft Declaration, such as the rights to sovereignty over natural resources, development and food sovereignty (article 5), rural women's rights (article 6), the right to life (article 7), the right to work (article 15), the right to food (article 17), the right to decent income and livelihood (article 18), the right to land and other natural resources (article 19), the right to a safe, clean and health environment (article 20), the right to means of production (article 21), the right to biological diversity (article 23), the right to health (article 26), and the right to housing (article 27).

5 Draft Declaration, Article 24, Paragraph 2(a)
 6 Draft Declaration, Article 24, Paragraph 2(b)
 7 Draft Declaration, Article 24, Paragraph 2(c) and (f)
 8 Draft Declaration, Article 24, Paragraph 2(d)
 9 Draft Declaration, Article 24, Paragraph 2(e)
 10 Draft Declaration, Article 24, Paragraph 2(g)
 11 Draft Declaration, Article 24, Paragraph 3

12 General Comments are authoritative interpretations of the content of human rights provisions issued by the UN Human Rights Treaty Committees.

13 General Comment 15, Paragraph 37 (a), (b), (c), (d), and (e). Plantation workers' access to drinking water is based on Paragraph 10 (a) of ILO Recommendation 192 concerning safety and health in agriculture - Welfare and accommodation facilities - 10, which states "To give effect to Article 19 of the Safety and Health in Agriculture Convention, 2001, employers should provide, as appropriate and in accordance with national law and practice, to workers in agriculture: (a) an adequate supply of safe drinking water (...) and (d) separate sanitary and washing facilities, or separate use thereof, for men and women workers".

14 Draft Declaration, Article 24, Paragraph 2(a) „access to the essential amount of water that is sufficient and safe for personal, domestic and productive uses to be able to conduct a life in dignity" (emphasis added). Also Article 24 2 (f) "economic accessibility/affordability of water for domestic and productive uses. States shall provide water supply, sanitation and decentralized, small-scale and community-based irrigation services that are affordable" (emphasis added).

15 This is based on General Comment 15, International Obligations, Paragraphs 30 to 36.

16 Although this is not specifically mentioned in the Draft Declaration, it is clearly referred to in General Comment 15 on the right to water, Paragraphs 16 (a) and 48. See also <http://www.ohchr.org/Documents/Publications/FactSheet35en.pdf>, p. 7-8

2. WHAT IS THE NORMATIVE CONTENT OF THE RIGHTS TO WATER AND SANITATION?

The legal framework of the rights to water and sanitation has developed in the past several years and the primary basis for these human rights, as mentioned above, is Article 11 of the ICESCR on the right to an adequate standard of living. Derivation of the right to water and sanitation from Article 11 is further reinforced by General Comment 15¹⁷ and UN Resolutions A/RES/64/292 and A/HRC/RES/15/9.¹⁸ UN Resolution A/HRC/RES/15/9 also emphasizes the inextricable interconnectedness of the right to water to the right to the highest attainable standard of physical and mental health, and to the right to life and human dignity.¹⁹ Already prior to these two UN Resolutions, several international human rights treaties and other international instruments made explicit references to water and sanitation. These are Article 14.2 of the Convention on Elimination of all Form of Discrimination Against Women (CEDAW, 1979),²⁰ Article 24.2 of the Convention on the Rights of the Child (CRC, 1989),²¹ and Article 28 of the Convention on the Rights of Persons with Disabilities (CRPD, 2006).²² The rights to water and sanitation are, in addition, acknowledged – implicitly or explicitly – in regional human rights treaties, several UN recommendations and statements, national constitutions and legislation,²³ as well as soft law instruments, such as FAO right to food guidelines and the recent decision box of the UN Committee of Food Security (CFS) on Water for Food Security and Nutrition (FSN).²⁴ The rights to water and sanitation have also been applied in case law at national, regional and international level.²⁵ The rights to water and

sanitation are the human rights which entitle everyone to essential amount of water that is sufficient, safe, acceptable, accessible and affordable for personal, domestic,²⁶ and productive uses²⁷ to conduct a life in dignity. Not only does water serve different purposes,²⁸ it is essential for the realization of an array of other human rights, among which are: the right to life (water for mere existence of human beings), the right to food (water to produce food), the right to health (water to ensure hygiene) and the right to gain a living by work (water to secure livelihoods).²⁹ General Comment 15 calls to focus on providing equitable access to water and management systems (also sustainable rain harvesting and irrigation technology) to farmers who are disadvantaged and marginalized. While the General Comment 15 prioritizes water for personal and domestic uses, it nevertheless refers to Article 1, paragraph 2 of the ICESCR which states that people may not be “deprived of its means of subsistence”, thus States parties should ensure that “there is adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples”.³⁰



17 General Comment 15, Paragraphs 1 and 3 reaffirm the right to water and sanitation as a prerequisite and fundamental condition for the fulfillment of the right to adequate standard of living.

18 See footnote 2.

19 A/HRC/RES/15/9, Paragraph 3.

20 CEDAW, Article 14 (2) (h): “States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right... (h): To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communication.

21 CRC, Article 24 (2) (c): “States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:(...)(c): To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.

22 CRPD, Article 24 (2): “States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures: (a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs.

23 Some of the examples are, for ex. African Charter on the Rights and Welfare of the Child (African Charter), 1990, Article 14(2) (c); the Mar del Plata Declaration of the UN Water Conference, 1977; the UN General Assembly Resolution on the Right to Development, 2002. National constitutions which recognize the right to water are, among others, Algeria (2005), Kenya (2010), and Uruguay (2004).

24 For the CFS decision box, see <http://www.fao.org/3/a-mo943e.pdf>.

25 For a compilation of case law, see Water Lex/Wash United (2014): The Human Rights to Water and Sanitation in Courts Worldwide – a Selection of National, Regional, and International Case Law. See <http://www.waterlex.org/new/wp-content/uploads/2015/01/Case-Law-Compilation.pdf>

26 General Comment 15, Paragraph 2.

27 The Draft Guidelines for the Realization of the Right to Drinking Water and Sanitation (2005), prepared by the UN. Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/Sub.2/2005/25), refers in section 4.3. That (...) In order to realize the right to adequate nutrition and the right to earn a living through work, marginalized or disadvantaged farmers and other vulnerable groups should be given priority in access to water resources for their basic needs. Also, the CFS recalls the essentiality of water of “appropriate quality and quantity (...) for food production (fisheries, crops and livestock), processing, transformation and preparation”. See CFS 2015/42 Report, p.3.

28 General Comment 15, Paragraph 6 “Water is required for a range of different purposes, besides personal and domestic uses, to realize many of the Covenant rights. For instance, water is necessary to produce food (right to adequate food) and ensure environmental hygiene (right to health). Water is essential for securing livelihoods (right to gain a living by work) and enjoying certain cultural practices (right to take part in cultural life).”

29 General Comment 15, Paragraph 6. General Comment 15, however, also recognizes the importance of ensuring sustainable access to water resources for agriculture to realize the right to adequate food, giving particular attention to disadvantaged and marginalized farmers, including women farmers that they should have equitable access to water and water management systems, also sustainable rain harvesting and irrigation technology (General Comment 15, Paragraph 6).

30 General Comment 15, Paragraph 7.



The normative content of the rights to water and sanitation is Adequacy, Availability, Quality, Accessibility, and Sustainability.

ADEQUACY: In line with Article 11 and 12 of the ICESCR (“right to the highest attainable standard of physical and mental health”), water must be adequate for human dignity, life and health. The adequacy of water should not be understood in a narrow sense, by referring merely to volumetric quantities and technologies. Water should not be treated primarily as an economic good, but as a social and cultural good.³¹

AVAILABILITY: The water supply must be sufficient and continuous for personal (drinking), domestic (e.g. cooking, personal and housing hygiene, washing clothes)³², and productive (for farming, fishing, livestock keeping and ensuring other water related livelihoods) purposes³³. Sufficient water must be available for a person and community to enjoy a life in dignity. With respect to sanitation,³⁴ a sufficient number of sanitation facilities must be available, which are located for ex. within, or in the immediate vicinity of each household, health or educational institution, public institutions and places, and the workplace.³⁵

QUALITY: Safe water (“free from micro-organisms, chemical substances and radiological hazards”³⁶) is required for personal, domestic and productive uses.³⁷ Also, water must have acceptable odor, color and taste. Sanitation facilities must be hygienically safe to use (effectively prevent human, animal and insect contact with human excreta), have access to safe water for hand washing and hygiene, and technically safe to use at all times. Also, sanitation facilities and services must be culturally acceptable, for example,

ensuring privacy and separate for women and men in public and work places, and girls and boys in schools, allowing also culturally acceptable hygiene practices (“acceptability”).³⁸

ACCESSIBILITY has several dimensions: Physical accessibility, economic accessibility, non-discrimination, and information.³⁹ Safe, sufficient and regular water, water services and water and sanitation facilities must be in vicinity to houses, fields, fishing ponds, and work/educational places (e.g. plantations). Physical safety and security should not be threatened particularly for girls and women when accessing water and water services (physical accessibility). Water and the connected services for personal, domestic and productive uses must be affordable to everyone (economic accessibility).⁴⁰ Sanitation facilities and services, also including construction, emptying and maintenance of facilities, treatment and disposal must be available at an affordable price for all without limiting their capacity to acquire other basic goods and services, including water, food, housing, health and education guaranteed by other human rights.⁴¹ Water resources and services should be managed in accordance with non-discriminatory principles (non-discrimination) especially for disadvantaged and marginalized groups, and particularly respecting customary and community-based water management systems.⁴² Also, a possibility to seek and reach information about water services, management and related issues must be ensured for all (information).⁴³

SUSTAINABILITY: the realization of the right to water must be sustainable, guaranteeing the right to be realized for present and future generations.⁴⁴

31 General Comment 15, Paragraph 11.

32 General Comment 15, Paragraph 12.

33 Draft Declaration, Article 24, Paragraph 1.

34 General Comment 15 does not detail out the normative content of the right to sanitation. The normative content mentioned here is framed by Catarina de Albuquerque, independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, in her report (A/HRC/12/24; 1 July 2009) – Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development– reported at the twelfth session of the Human Rights Council. The nature of the right to sanitation is furthermore explained in the statement of the Committee on Economic, Social and Cultural Rights (CESCR) (E/C.12/2010/1) issued in November 2010.

35 A/HRC/12/24, Paragraph 70.

36 General Comment 15, Paragraph 12 (b).

37 CFS Decision Box on water 1. (c) refers to „Prevent and significantly reduce pollution, restore, depollute and protect water bodies from contamination and ensure water quality is preserved for domestic, agricultural and food-related uses (...)”.

38 A/HRC/12/24, Paragraph 80.

39 General Comment 15, Article 12 (c).

40 General Comment 15, Article 12.

41 A/HRC/12/24, Paragraph 77.

42 Draft Declaration 24, 3.

43 General Comment 15, Paragraph 12.

44 General Comment 15, Paragraph 11.

3. WHAT ARE STATES' OBLIGATIONS UNDER THESE RIGHTS?



Based on the human rights framework and taking into account the universality, inalienability, indivisibility, interdependency and interrelatedness of human rights, the Draft Declaration defines both **general obligations** (progressive realization of the rights and non-discrimination) and **specific obligations** (obligations to respect, protect, and fulfill) of states, and acknowledges international obligations of states vis-à-vis the rights to water and sanitation. It needs to be emphasized that while states are obliged to fulfill the rights to water and sanitation progressively, states must guarantee immediately, even in the situation of limited available resources that the rights are exercised without discrimination and steps towards its full realization are taken.⁴⁵

In regard to peasants and people working in rural areas, the obligation to **respect** implies that states must refrain from interfering with rural people's enjoyment of the rights to water and sanitation and with existing arrangements in water management, water allocation, and water system, including customary, traditional, and community-based rights, insofar that they are compatible with human rights law. In many parts of the world, access to and control over water and other natural resources is governed by customary and community-based norms and practices. States must also cease from taking actions that harm equitable distribution of all available water, including ground water, and sanitation facilities and services.⁴⁶ Actions that limit or prevent the enjoyment of the rights to water and

sanitation are, for example, water supply interruptions, diversions of water (for ex. for large-scale irrigated agriculture or hydropower/dams) and diminishing and pollution of water resources by states or state-owned companies. States must also refrain from discriminating against rural women regarding their enjoyment of the rights to water and sanitation. States also have the obligation to **protect** the rights to water and sanitation of peasants and people working in rural areas. They must protect them against third parties whose interference in any way represents or could represent a threat to the enjoyment of the rights to water and sanitation for peasants and people working in rural areas.⁴⁷ States must also protect access to water, particularly in customary and community-based water management systems. Also, personal security of girls and women when accessing water and sanitation must be protected by states.⁴⁸ Third parties include non-state actors such as individuals, groups or private corporations. For example, states are obliged to prevent third parties from interfering with the enjoyment of the rights to water and sanitation from arbitrarily cutting off users from water supply, from polluting and contaminating water by harmful substances specifically by industrial effluents and concentrated minerals and chemicals that result in slow and fast poisoning, or from overuse and inequitable extraction of water by corporations.

States have the obligation to fulfill the rights to water and sanitation of peasants and people working in rural areas.⁴⁹ States must **facilitate** the right to water and sanitation by taking positive measures to assist individuals and communities to enjoy the right and prioritize water use for human needs, small-scale food production, ecosystems and cultural use before other uses.⁵⁰ States should also facilitate access to water particularly in customary and community-based water management systems. States must **promote** the rights to water and sanitation by taking steps to ensure that there is appropriate education regarding essential water related issues such as hygienic use of water, ways to protect water sources and measures to minimize water wastage. In addition, States must **provide** water supply, sanitation and decentralized, small-scale and community-based irrigation services that are affordable or at no cost, if individuals or groups are unable – beyond their control – to realize the rights by themselves and by the means at their disposal.

Finally, in accordance with States' international obligations, States should "refrain from actions that interfere, directly or indirectly, with the enjoyment of the right to water in other countries. Any activities undertaken within the State party's jurisdiction should not deprive another country of the ability to realize the right to water for persons in its jurisdiction"⁵¹. Also, upstream and downstream neighboring states should cooperate and jointly engage in safeguarding the right to water of peasants and other people working in rural areas.⁵²

⁴⁵ General Comment 15, Paragraph 17.
⁴⁶ Draft Declaration, Article 24, 2(e).

⁴⁷ Draft Declaration, Article 24, 3.
⁴⁸ Draft Declaration; Article 24, 2(d).
⁴⁹ General Comment 15 differentiates this obligation between the obligation to facilitate, to promote, and to provide. General Comment 15, Paragraph 15.
⁵⁰ Draft Declaration, Article 24, 3.
⁵¹ General Comment No. 15, Paragraph 31. Also Sub-Commission Guidelines, section. 10.1.
⁵² Draft Declaration, Article 24, 5.

4. WHY IS IT IMPORTANT TO RECOGNIZE THIS RIGHT IN THE DECLARATION?

Because the rights to water and sanitation are inextricable for the realization of a whole range of human rights for rural population

Life cannot be sustained beyond a few days without water. Water is thus not only indispensable for mere human survival ensuring hydration, nutritious food-intake and maintaining health and well-being, water is also vital for basic sanitation and good hygiene. Water lays the foundation for a healthy, productive and dignified life, which is at the core of all human rights. Notwithstanding, there are 783 million people today who are water insecure and denied access to safe and clean water, while 2.5 billion do not have access to adequate sanitation.⁵³ The majority of them live in rural areas and depend on agriculture (which also includes forestry and fishery) and related activities for their livelihoods.⁵⁴ For peasants and rural communities, water is not only indispensable for their mere human life, it is also essential for ensuring their livelihoods. Too often local water supplies and sources are exhausted and/or polluted by mega mining operations and agribusiness corporations, thereby impacting the availability, adequacy, and accessibility of water, both drinking water and water necessary for farming, fishing, livestock keeping and for securing other water related livelihoods. This, in return,



has detrimental impact on the enjoyment of other human rights – for example the rights to an adequate standard of living and to just and favorable conditions of work, the right to land and other natural resources, the right to food, the right to health, and the right to housing of rural populations. In addition, rural women and girls bear the primary responsibility for fetching water in many parts of the world and are disproportionately affected by the lack of adequate water and sanitation. Notably, they suffer most from the severe consequences from water-borne diseases. Walking longer distances to fetch water increases the risk they face to be exposed to sexual and gender-based violence and the lack of adequate water and sanitation force many girls out school during menstruation. Very often their human rights – for ex. the right to health and the right to education are threatened and/or violated.

Because it re-emphasizes the importance of water for small-scale food production

The key foundation for the rights to water and foundation is article 11 of the ICESCR, later firmly acknowledged in consecutive UN resolutions and reaffirmed in the General comment 15 on the right to water. The rights to water and sanitation are a powerful tool for all rights-holders, especially rural communities who depend on water for livelihoods to hold states that are duty-bearers accountable to respect, protect, and fulfil these rights. The Declaration on the Rights of Peasants and Other People Working in Rural Areas thus serves as an additional legal interpretation to fill in the current normative gap of the rights to water and sanitation which prioritize drinking water and sanitation and water for domestic uses and makes normative differences between drinking water and water required for production and livelihood. Indeed, water is necessary beyond domestic and sanitation uses, as it is indispensable for growing, preparing, and selling food and other products that are vital for guaranteeing livelihoods of peasants and people working in rural areas. The multi-fold character of community-based and customary water rights constitutes the lifeline for rural families, reflecting thus the need to look at water in all its usages that guarantee life in dignity. Furthermore, adequate and sufficient water for productive uses to secure rural population's livelihood in farming, fishing, livestock keeping and any other related livelihoods is an essential prerequisite to guarantee several related rights enshrined in the Declaration, in particular Article 5 on the rights to sovereignty over natural resources, development and food sovereignty, Article 17 on the right to food, Article 18 on the right to decent income and livelihood, Article 19 on the land and other natural resources, and Article 21 the right to means of production.

⁵³ piaph | Comment 15, paragraph 11. graph <http://www.unwater.org/water-cooperation-2013/water-cooperation/facts-and-figures/en/>

⁵⁴ See World Bank. 2007. World Development Report 2008: Agriculture for Development. Washington, DC. © World Bank. See <https://openknowledge.worldbank.org/handle/10986/5990> License: CC BY 3.0 IGO. P.1.



Article 24 – Rights to water and sanitation

- 1. Peasants and other people working in rural areas have the human right to safe and clean drinking water and sanitation that is essential for the full enjoyment of life and all human rights and the right to water for farming, fishing, livestock keeping and securing other water related livelihoods. They have the right to equitable access to water and water management systems, to be free from arbitrary disconnections or contamination of water supplies, and the right to a system of water supply and to sanitation facilities that are available, of good quality, affordable and physically accessible, non-discriminatory and acceptable in cultural and gender terms.
- 2. In order to realize the human right to water and sanitation of peasants and other people working in rural areas, States shall guarantee at all times the following conditions:
 - (a) access to the essential amount of water that is sufficient and safe for personal, domestic and productive uses to be able to conduct a life in dignity;
 - (b) access to safe drinking water and improved sanitation on a non-discriminatory basis, especially for disadvantaged or marginalized groups such as, inter alia, nomadic pastoralists, workers in plantations, migrants regardless of their legal status, and people living in irregular/informal settlements;
 - (c) physical access to water facilities or services that provide sufficient, safe and regular water;
 - (d) personal security, particularly of girls and women, is not threatened when having to physically access to water and sanitation;
 - (e) equitable distribution of all available water, including groundwater, and sanitation facilities and services;
 - (f) economic accessibility/affordability of water for domestic and productive uses. States shall provide water supply, sanitation and decentralized, small-scale and community-based irrigation services that are affordable;
 - (g) protection of natural water resources from overuse and contamination by harmful substances particularly by industrial effluents and concentrated minerals and chemicals that result in slow and fast poisoning.
- 3. States shall respect, protect and fulfil access to water particularly in customary and community-based water management systems. States shall prevent third parties from interfering in any way with the enjoyment of the right to water of peasants and other people living in rural areas. States shall prioritize water use for human needs, small-scale food production, ecosystem needs and cultural use before other uses.
- 4. States shall protect and ensure the regeneration of watersheds, aquifers and surface water sources, including wetlands, ponds, lakes, rivers and streams.
- 5. States shall cooperate and engage with upstream and downstream neighboring states in order to jointly safeguard the right to water of peasants and other people working in rural areas.

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