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Water as Gift and Right

A Statement of the Ecumenical Team to CSD12 Coordinated by the World Council of Churches

<u>Note</u>: This statement has been prepared by the Ecumenical Team at CSD12 as an analysis from a theological and ethical perspective of some of the key advocacy issues related to water on the CSD12 agenda. It is intended for use in discussions with delegates and other participants at CSD12 but also for post-CSD12 activity through sharing with partners, capacity-building on global advocacy related to water within our respective networks, and in the developing ecumenical collaboration on water involving the WCC, member churches and relief and development agencies.

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1. Threats to water for the most vulnerable and responses of communities

Water is a foundation for the life of human beings and other ecosystem members of the One Earth Community. But that foundation is under threat from many sources:

- The people of the small island atoll of Kiribati in the South Pacific are finding their wells more frequently inundated with salt water from the rising sea levels attributable to human-induced climate change making the water from the wells unusable for drinking or agriculture.¹
- In many areas of Ghana, water services are managed by private corporations who operate on a cost-recovery and shareholder profit basis. A family's inability to pay results in their water access being cut off.²

¹ "Otin Taai Declaration – Pacific Churches' Consultation on Climate Change", World Council of Churches, March 2004, www.wcc-coe.org

² "Christian Aid in Ghana", Christian Aid, January 2004, www.christian-aid.org.uk

- Women and children of Zaragosa Island in the Philippines spend 2-4 hours per day travelling to the mainland to collect water from a municipal faucet.³
- The 1994 New Mineral Policy of the Government of India brought transnational corporations into joint ventures with Indian mining companies with vastly expanded mining endeavours. The impact on communities and the environment has been disastrous including deforestation, discharge of toxic effluents and dumping of toxic wastes into water ways and the uprooting of thousands of people, mostly Adivasis (tribal peoples).4
- The Grassy Narrows First Nation (Indigenous People) in northern Ontario, Canada have suffered cultural dislocation when their traditional burial grounds and sacred sites were flooded by massive hydro dams and their health has been compromised by mercury poisoning from an upstream paper mill.⁵
- In 2000, Azurix, a water services subsidiary of the former US energy giant ENRON, signed a contract to deliver water services in large areas of Argentina. Setting the recuperation of their initial investment as their highest priority led to deterioration of infrastructure, interruptions in service, and contamination of water supply due to negligence. Because of the poor service, many consumers refused to pay their bills. Shortly thereafter the ENRON crisis exploded and Azurix decided to abandon the water service and break their contractural obligations.⁶

Communities are organising to respond to such threats to their access to water:

- Local farmers and villagers in Kerala India were met with mass arrests in 2003 when they tried to protest the unsustainable withdrawal of up to a million gallons of water daily from 65 area bore holes by the Coca-Cola Company. Nevertheless, persistent community pressure and a supportive local council has led to a ban on further withdrawals until the arrival of the monsoons in June 2004. Coca-Cola is appealing the ruling.⁷
- In Brazil, civil society organisations are drawing on grants from local banks and government to build rain water cisterns with the objective of creating 1,000,000 low cost water facilities for poor communities.⁸
- Civil society groups are demonstrating that an eco village model can transform waste into renewable energy and channel domestic water to restore the environment. Protecting the Nakivubo wetlands in Uganda in this way can, through natural processes, do the task that would cost \$2 million annually in traditional sewage purification services.⁹

³ "Diverting the Flow", Women's Environment and Development Organisation, Nov. 2003, www.wedo.org

⁴ "Investigating some Alleged Violations of the Human Right to Water in India", January 2004, FIAN International & Brot-fuer-die-Welt Germany, www.fian.org

⁵ "Our Waters, Our Responsibility: Indigenous Water Rights", prepared for Indigenous People's Water Rights Forum, Winnipeg, Canada, May 2004

⁶ "Defend the Global Commons", Water for All Campaign, Public Citizen: www.wateractivist.org

⁸ "CSD12 Freshwater Caucus Statement" in Taking Issue, CSD12 Sustainable Development Issues Network ⁹ Ibid.

- An international network of social groups, environmental organisations, women's networks, trade unions and faith communities is mobilising a campaign to prevent water from being included in the World Trade Organisation negotiations as a "goods and service".
- Michigan (USA) Citizens for Water Conservation and other plaintiffs were successful in convincing a judge in 2003 to force the Nestle Corporation to terminate withdrawals of spring water in Mecosta County on the grounds that Nestle's water operations unlawfully diminished lakes, streams and wetlands.¹¹

2. Theological and ethical foundations for water as gift and right

Water is the cradle and source of life, and one of the most potent bearers of cultural and religious meanings. Christian theological reflection has its roots in these two observations.

Life, in all its forms is impossible without water. It was only the development of planetary conditions that allowed for the presence of large quantities of water in its liquid state that made possible the emergence of life on earth. Without water and its particular qualities, biological life as we know it would be impossible. Water is a precondition for life, a given, a gift.

In Christian theological reflection, creation begins with the spirit of God "brooding over the face of the waters" (Genesis 1:2). Later, drought becomes a symbol and image of divine judgment (Isaiah 33:9), and the eschatological hope of the prophets comes to be expressed through the promise that rivers will spring up in the desert (Isaiah 43:19). Communities experience threat not only through the absence of water but when there is too much as in sea level rise and when it is impure as a result of inadequate sanitation. For the Christian community these images are further developed in baptism where water becomes the image of renewal, of promise, and of hope.

The centrality of water to life, and the experience of water as gift are two sources of our affirmation of water as a basic human right. Just as the biblical Jubilee declared that land belonged, in the final analysis, to God and not to any particular individual, so we would affirm that water should be part of the global commons. To treat water as a gift of God and human right implies that clean fresh water should be available to meet the basic needs of all, rather than be treated as a private commodity to be bought and sold.

Human community is dependent on water, not just physically, but socially and culturally. In the scriptures we see the identification of particular cultures with the rivers from which their sustenance is drawn. When the people "refuse the gentle waters of Shiloah" (Isaiah 8:6), we are being told that they have forgotten their divine vocation. The consequence of this is a judgment lived out in exile beside the wrong river (Ps 137). This correlation

¹⁰ "Keep Water and Water Services out of the WTO", A civil society call to the Ministerial Conference at the 3rd World Water Forum, Kyoto, Japan, March 2003

^{11 &}quot;Defend the Global Commons", Water for All Campaign, Public Citizen: www.wateractivist.org

between culture and the water systems beside which people live, and in relationship to which they gain their livelihood, provides a basis for the church's solidarity with Indigenous Peoples, and indeed, with all peoples who are displaced from their home and alienated from the waters that have traditionally given them life.

3. Advocacy Issues:

3.1. Support and expansion of community-based initiatives

Expanding the support (sometimes referred to as 'scaling up') of community-based initiatives has a great potential to contribute towards the Millenium Development Goals related to water and sanitation. In various regions of the world, there are encouraging examples of the effectiveness of community-based organising to meet people's needs for water:

- In Brazil, ASA (a forum for articulation of the semi-arid region) a FORUM of non-governmental organisations formed by 11 States, has been created to co-ordinate a wider development approach by all stakeholders with focus on promoting coexistence and development of nature and people in the semi-arid region. The orientation is not to change the nature of the semi-arid ecology, but to adjust, accommodate and sustain development. The project of construction of one million cisterns (P1MC) comes under the umbrella of ASA. It promotes and monitors technical specification, quality of work, lobby/advocacy, organisation and mobilisation of civil societies etc. Grant funding is provided by the government of Brazil and an association of private banks.
- Integrated watershed management is being up-scaled in development in Maharastra, India.
- In Kenya:
 - The people of Kola in Machakos have created 120 sand dams in order to harvest the flood waters from the long rains that come from the mountains. This model can be easily replicated in many places in the region.
 - Civil society organisations such as ITDG and Maji na Ufanisi have
 worked with slum dwellers to access urban water supply and improve
 sanitary conditions, improving the livelihoods of 45,000 residents in
 Kibera, Kangemi and Kiambiu informal settlements. Bio-gas pilots on
 human waste reuse for methane production and consequent lighting and
 cooking options are further cases that successfully demonstrate sustainable
 development strategies in informal settlements.
 - Sand dams and mountain catchment have been promoted in Northern Kenya through the Pastoralist Integrated Support Program with a resulting recharge of ground water, reduction in soil erosion and improvement of the livelihoods of 10,000 pastoralists between 2002 -2004.
- Sustainable financing of household sanitation has been promoted in Bangladesh through the partnerships of multilateral institutions, civil society organisations and governments.
- The Okavango River Basin 'Every River Has its people' in Southern Africa is an area where stakeholders including government and parastatals (semi-

governmental bodies) have successfully enhanced livelihoods and at the same time protect the shared international river resource.

CSD12 Ecumenical Team recommendations regarding support and expansion of community-based initiatives:

- governments, multilateral institutions, the private sector and civil society should increase support to community based and driven initiatives with a priority on those that recognise leadership of women and the energy of an educated youth;
- support to community level service providers should be increased in planning, strategies and national budgets as the key component to meeting the Millenium Development Goals for improved water and sanitation;
- the inter-connection of water access and adequate sanitation should be emphasised in community projects;
- an ecosystem approach should be utilised because it expands our perspective to include the full community of life, human and non-human. with all its inherent integrity and because it increases our awareness of the inter-connectedness of the range of dynamics which can influence the well-being of communities.

3.2. Overseas Development Aid (ODA) issues related to water projects and funding Access to water and sanitation form an entry point to human development and poverty elimination. Therefore they should be at the top of poverty elimination strategies, which is not the case at the moment.¹²

The implementation of the Millennium Development Goals (MDGs) and of the Johannesburg Plan of Implementation on water and sanitation requires immediately stronger investment in the water sector. There is a consensus on this within the multilateral, official and non-governmental development organisations, but there are contradictions and discussions about the adequate sources and necessary terms for these additional investments. Thus, as important as the availability of funds, are the political decisions to make sure that the financial means in deed do help to establish socially just and ecologically sustainable water and sanitation systems for the poor.

Key areas for reaching the MDGs are the rural areas and the urban slums. Geographically, Africa is the most needy continent, with approximately half of its population being without access to sufficient and clean water. Yet, an analysis of the present flow of ODA money of OECD countries to the water and sanitation sector shows, that there is an urgent need to better focus the aid investments:

Only 12% of the total aid to the water sector in 2000-2001 went to countries where less than 60% of the population had access to safe water¹³. The share of

¹³ OECD, Creditor Reporting System (CRS), Aid Activities in the Water Sector 1997-2002, Geneva 2003

¹² "Some Water for All or More Water for Some? Financing the MDG needs shift in resource allocation." Bread for the World, Stuttgart, Germany, January 2004.

- Africa, where the need is extremely high, has even slightly decreased during the last years.
- According to the same analysis, the vast amount of money went into large projects in urban areas, accounting for over three-quarters of the funds for water and sanitation projects.
- Also, the aid was channelled to relatively few countries. From 1997-2001, the
 ten largest recipients received 48% of the total funds. China, India, Vietnam,
 Peru, Morocco and Egypt were among the top ten together with Mexico,
 Malaysia, Jordan and the Palestinian-administered area, and none of the most
 needy sub-Saharan African states.
- Furthermore, many of these projects are financed through loans rather than grants. For example in 2000-01, about 57% of total ODA in the water sector took the form of loans, and thus increased the foreign debts¹⁴.

In view of this situation, we consider it urgent that the community of developed countries fulfils its obligation to help poor countries to be able to guarantee and protect the human right to water and adjusts ODA politics accordingly.

In the same context, we welcome the intention of the European Union to establish a new Water Facility with more than one billion Euro for the promotion of the MDG's in the water and sanitation sector in African, Caribbean and Pacific countries. At the same time, we urge the European decision-makers to take into serious account the UN Secretary-General's Statement, that privatised water projects generally did not reach the poor 15. EU Water Facility Funds should clearly be excluded for subsidies for private foreign investments in the water sector, under the category of risk mitigation. Public funds, which are earmarked for official development aid, should under no means duplicate or replace the existing financial instruments on this behalf, like export credit agencies. Also, the EU Water Facility proposal should explicitly recognise that water is a basic human right and should address how the Facility supports the fulfilment of this right.

CSD12 Ecumenical Team recommendations on ODA issues related to water projects and funding:

- fulfil the Monterrey commitment of raising development aid to 0.7% of the Gross Domestic Product,
- increase the share of aid to water and sanitation within ODA to a minimum of 10%,
- prioritise rural areas and urban slums in the poorest countries, specifically sub-Saharan African states,
- focus on the reform and improvement of public water and sanitation systems, and avoid pre-determination in favour of corporate private sector control,

Report of the Secretary General to the Commission on Sustainable Development, Twelfth Session, Item 3 (a) of the provisional agenda, E/CN.17/2004/1, paragraph 22 and 62

¹⁴ By comparison, the share of loans in ODA to all sectors combined in 2000-01 was 22%.

• follow a flexible approach based on an in-depth analysis of the given situation and on community participation.

3.3. Trade and privatisation concerns

Water is a basic human need. The human right to water is recognized as a precondition for other human rights – such as the right to life, appropriate nutrition and sufficient medical care. (U.N. Doc. E/C.12/2002/11)

Yet when that which has traditionally been owned by communities is transferred to private ownership it makes impossible the protection of a "right" as it makes water a "commodity" that is "tradable" for a price and at a profit. "Privatisation" in the context of ownership of water replaces community and people's ownership of water sources with private ownership. Such an approach is a serious roadblock to achieving the Millennium Development Goal on water that seeks to reduce by half the proportion of people without access to safe drinking water by 2015.

There is little by way of clarity and coherence, regarding water sources, supply and service, and its use, in the current approaches to resolve the world water crisis. International financial institutions have aggressively promoted an approach that naturalizes the "provision of water services" as way of thinking of water use. The GATS definition of "supply of service" includes the production, distribution, marketing, sale and delivery of service (Article XXVIII – (b)).

Proponents for inclusion of water as a "service" under the GATS believe that such a course of action would help alleviate the world water crisis and helpmeet the Millennium Development Goal on water. This approach rests on the argument that the current world water crisis is the consequence of water services being part of the public sector. Public sector provision of water services is strongly critiqued for its inefficiency, low resource capacity and lack of technical and operational capacity.

Strongly promoted by the World Bank and the IMF, the market-based approach to water management has greatly strengthened the transnational corporations role in providing water supply and sanitation services, particularly in the developing countries. Reviewing the World Bank's approach outlined in its *Water Resources Management (1995)* clarifies the position of the Bank as: fully supportive of ending the government monopoly in this sector and supporting the need for governments to be selective in the responsibilities they assume for water resources.

A review of the polices of the International Monetary Fund (IMF) in 40 countries found that during 2000, IMF loan agreements in 12 countries included conditions imposing water privatisation or full cost recovery. When the IMF presses for privatisation of water it is difficult for countries from the global south to withstand the pressure. Also, compliance with IMF conditionalities is a pre-requisite,

frequently, for access to other international creditors and investors, including the World Bank. 16

The urgent challenge, both in the South and the North, is to develop a positive vision of the public sector models that are responsive and effective in meeting water needs. The purpose should be clearly not to promote blueprints, but rather to create space for local communities to develop their own solutions and maintain their traditional rights and approaches to water use.

Designed properly, with the full involvement of all stakeholders, private management of water supply and provision may improve efficiency and minimize wastage. However the experience of several countries shows high tariffs and rising costs of provision have impacted negatively those who need to benefit from development efforts the most – the poor and the marginalised.

CSD12 Ecumenical Team recommendations on trade and privatisation concerns related to water services:

- Water is a public good
- if water resources are to be a public good then the state has to manage this resource for the benefit of the public, not only for the present generation, but the generations to come.
- implications of this responsibility of the state include:
 - · recognition and practice of good governance,
 - adequate opportunity to participate in decision-making by the affected communities especially the indigenous and the marginalised,
 - transparency, and
 - accountability.
- responses to the global water crisis should avoid narrowing available options to "privatisation" as the "solution" (by international financial institutions like the IMF and the World Bank or by rules and provisions in the GATS negotiations and agreements), and should facilitate the learning process through the exchange of experiences amongst communities and developing countries.

3.4. UN Decade on Water 2005-2015

In Dec. 2003 the General Assembly of United Nations decided to proclaim a second UN Decade on Water, starting in March 2005, after the first one during the 1980s.

This decision reminds the international community that water and sanitation are strategic key issues for overcoming poverty and for achieving development, and also calls for special and continuous efforts in order to achieve the MDG on water and sanitation. The challenge is huge and requires a goal of daily connecting an additional 280,000 people to water and 384,000 to sanitation. The slogan of the UN Decade of the 1980s was "Water for All" and it succeeded in bringing water to an additional 1.6

 $^{\rm 16}$ "IMF forces Water Privatization on Poor Countries," Sara Grusky, Globalization Challenge Initiative, February 2001

billion people, many of them in rural areas. But the strategy was very much predicated on the model of industrialized countries and their expensive and centralised technology, which requires large quantities of water - a model that was not affordable and financially sustainable for the highly indebted developing countries.

During the 1990s, strong efforts were made to mobilise private investment, hoping to close the financial gaps and to achieve more efficiency and better management. More recently, the World Bank and the transnational water companies that were the strongest promoters of this strategy have acknowledged that the expectations have not been fulfilled and that the poor mostly have not been reached.

Recommendations of the CSD12 Ecumenical Team regarding the UN Decade on Water 2005-2015:

- Governments, multilateral bodies, the private sector and civil society should utilise the new UN Decade to:
 - build on the learnings of the past,
 - focus on socially and ecologically sustainable strategies which challenge and strengthen public responsibility for the realization of the human right to water, and
 - involve local people not only as clients, but as citizens.

3.5. International legal framework options

The UN Committee on Economic, Social and Cultural Rights, in its General Comment #15 on the implementation of Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights, noted that "the human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights." This human right has received global recognition and is firmly established in a number of international human rights instruments. By ratifying these treaties and instruments, States have voluntarily accepted the obligations to progressively realise the right to water and sanitation.

Water needs the protection of international law that incorporates a rights-based approach. A water convention binding under international law would champion a forward-looking water policy that is based on the human right to water, recognise water as a common good of humanity, safeguard the basis of life for future generations and create equitable distribution. Behind the call for binding law are questions of principle such as: Is access to water a human right or just a need? Is water a common good or a tradable commodity? Who has authority over access to water?

An international water convention is needed: 19

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¹⁷ The right to water, General Comment #15, Substantive Issues arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights, E/C. 12/2002/11.

¹⁸ "Why We Need an International Water Convention", Swiss Coalition of Development Organisations, March 2004, www.swisscoalition.ch
¹⁹ Ibid.

- To establish the right to water for all people in a binding manner.
- To guarantee the right to water for coming generations.
- To protect water as a public good belonging to humanity.
- To declare as a core task of governments that of guaranteeing the right to water, and making nation-states and their authorities responsible for the respect, protection and fulfillment of the right to water.
- To prevent water from being privatised and degraded to a tradable good.
- To ensure that the human right to water takes precedence over international trade agreements (e.g. WTO).
- To place springs, groundwater, rivers and lakes under the comprehensive protection of international law.
- To guarantee women's water-related rights as human rights.
- To protect the local and national water rights of Indigenous Peoples under international law.
- To enshrine traditional water culture and local water rights (e.g. of nomads) in national law.
- To ensure that the people who have a democratic right in determining and deciding national and local water strategies.
- To provide all people both internationally and domestically with effective judicial remedies for demanding fulfillment of the right to water.

CSD12 Ecumenical Team recommendations regarding international legal frameworks for water:

- states should recognise and observe their obligations regarding water as a human right that flow from their ratification of the International Covenant on Economic, Social and Cultural Rights;
- negotiations should be initiated through the United Nations for the preparation of an international freshwater convention.

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