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REPUBLIC OF KENYA



NATIONAL ASSEMBLY

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Chairperson, NRC on ENV
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App

12TH PARLIAMENT – SECOND SESSION - 2018

**THE REPORT OF ENVIRONMENT AND NATURAL RESOURCES COMMITTEE
ON WORLD WATER FORUM HELD AT BRASILIA, BRAZIL FROM 18TH TO 23RD
MARCH 2018**

**DIRECTORATE OF COMMITTEE SERVICES,
CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI.**

JULY, 2018

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LIST OF ABBREVIATIONS

COP	Conference of the Parties
EAC	East African Community
MP	Member of Parliament
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
SDG	Sustainable Development Goals
UN	United Nations
UNECE	United Nations Economic Commission for Europe
UNESCO	United Nations Educational, Scientific and Cultural Organization
WHO	World Health Organisation
WWC	World Water Council
HLPF	High Level Political Forum

1.0 PREFACE

1.1 Introduction

1.2 Establishment of the Committee

The Departmental Committee on Environment and Natural Resources is one of the fifteen (15) Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates, pursuant to the *Standing Order 216 (5,)* are as follows:

- a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- b) To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
- c) To study and review all the legislation referred to it;
- d) To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- e) To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- f) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);
- g) To examine treaties, agreements and conventions;
- h) To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- i) To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and

- j) To examine any questions raised by Members on a matter within its mandate.

1.2 Mandate of the Committee

In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider matters related to:

- i) Climate Change
- ii) Environment Management and Conservation
- iii) Forestry
- iv) Water Resource Management
- v) Wildlife
- vi) Mining and Natural Resources
- vii) Pollution and Waste Management

In executing its mandate, the Committee oversees the following State Departments, namely:

- The State Department for Water Services;
- The State Department of Environment and Climate Change;
- The State Department for Natural Resources Management; and
- The State Department of Wildlife
- The State Department of Mining

1.3 Committee Membership

The Committee on Environment and Natural Resources was constituted by the House in December, 2017 and comprises of the following Members: -

- | | |
|---|-------------------------|
| 1. The Hon. Kareke Mbiuki, M.P. | Chairperson |
| 2. The Hon. Sophia Abdi Noor, M.P. | Vice Chairperson |
| 3. The Hon. Benjamin Jomo Washiali, M.P. | |
| 4. The Hon. David Kangogo Bowen, M.P. | |

5. The Hon. Francis Chachu Ganya, M.P.
6. The Hon. Ali Wario Guyo, M.P.
7. The Hon. Beatrice Cherono Kones, M.P.
8. The Hon. Charity Kathambi Chepkwony, M.P
9. The Hon. Hilary Kiplang'at Kosgei, M.P.
10. The Hon. Peter Kimari Kihara, M.P
11. The Hon. Benjamin Dalu Tayari, MP.
12. The Hon. Charles Ong'ondo Were, M.P.
13. The Hon. Nasri Sahal Ibrahim, M.P.
14. The Hon. Rossa Buyu. M.P.
15. The Hon. Said Hiribae, M.P.
16. The Hon. Hassan Oda Hulufu, M.P.
17. The Hon. Amin Deddy Mohamed Ali, M.P.
18. The Hon. Rehema Hassan, M.P.
19. The Hon. (Eng.) Paul Musyimi Nzengu, M.P.

1.4 World Water Forum Delegation

A delegation from the Departmental Committee on Environment and Natural Resources attended the 8th World Water Forum that was held in Brasilia, Brazil, from March 18 to March 23, 2018. The Forum has held, as part of its Political Process, a Parliamentary Conference dedicated to the theme "The role of Parliaments and the Right to Water".

1.5 Composition of the Delegation

The President of the National Congress of the Federative Republic of Brazil, Hon. Eunicio Oliveira, had invited the National Assembly to participate in the 8th World Water Forum. The Departmental Committee of Environment and Natural Resources nominated the following three members of the Committee to attend the Forum:

1. The Hon. (Eng.) Paul Musyimi Nzengu, M.P. – **Leader of Delegation**

2. The Hon. Peter Kimari Kihara, M.P.
3. The Hon. Rehema Hassan, M.P.
4. Mr. Salem Lorot- Delegation Secretary

1.6 Committee Observations

The delegation made the following observations:

- i) The subject of water is not a national issue but an international one; therefore, although national legislations on water exist in the East Africa Community (EAC), there is no legislation yet on water in the East Africa Legislative Assembly
- ii) The 9th World Water Forum will be held in Senegal in 2021 and this will be the second time that Africa will host the event after it was held in Marrakesh, Morocco in 1997
- iii) After the Kenyan delegation made presentations to the World Water Council, it was resolved that Kenya will be involved in the preparatory processes of the 9th World Water Forum to be held in Senegal in 2021
- iv) Kenya has not hosted any World Water Forum event since its inauguration in 1997
- v) The Parliamentarians' Manifesto was signed by Parliamentarians who attended the 8th World Water Forum, including the members of the delegation and two Senators from Kenya
- vi) Parliament enacted the Water Act in 2016 which is aligned to the Constitution of Kenya 2010 but its provisions needs to be tested out and fully implemented
- vii) Debates on water with all stakeholders have been minimal, disjointed and not fully inclusive of all stakeholders
- viii) Kenya has either organised few or no forum that brings together Judges, Prosecutors and other stakeholders, including Parliamentarians, to discuss water issues
- ix) The legislative institutions within the EAC have not held a common approach to water in their legislative endeavours and collaboration amongst them have been missing

1.7 Committee Recommendations

The delegation makes the following recommendations:

- i) There is need to have an EAC legislation on water since regulation of water requires a common approach traversing countries
- ii) That Kenya takes note of the 9th World Water Forum to be held in Senegal in 2021 and participates effectively, particularly Members of the National Assembly
- iii) That Kenya lobbies to have the 10th World Water Forum to be held in Kenya in 2024 after the 9th World Water Forum scheduled to be held in Senegal in 2021
- iv) Water security and sanitation should be prioritised in the budgetary allocations
- v) Water infrastructure and technology transfer should be prioritised
- vi) Although Parliament enacted the Water Act in 2016, there is need to engage the stakeholders in the sector to assess its implementation status and to ensure that the National Assembly Implementation Committee ensures its effective implementation
- vii) The National Assembly supports the ratification and implementation of international agreements on the issues of environment, forest, water and sanitation to integrate the global effort in the fight against climate change, the destruction of forests, and pollution of the environment and water resources, as well as ensure the protection of the rights of the most vulnerable populations
- viii) The National Assembly, the Executive and all relevant stakeholders should ensure the progressive elimination of inequalities in the fulfilment of the human rights to drinking water and sanitation, guaranteeing priority in the allocation of resources to the most vulnerable populations
- ix) The National Assembly, the Executive and all relevant stakeholders should promote debates and conferences with civil society on water and sanitation to share water use and management experience; improve the decision-making level of public policies, ensuring a significant participation from civil society, as well as educational and research institutions; mainstream water and sanitation in basic education

- x) The following should foster collaboration amongst themselves to solve problems related to water and sanitation, exchange best legislative practices, as well as initiating and refining water-related legislative proposals:
- Parliament of Kenya (National Assembly and Senate)
 - County Assemblies in Kenya
 - Parliament of Rwanda
 - National Assembly of Uganda
 - National Assembly of Tanzania
 - National Legislature of South Sudan
 - Parliament of Burundi
- xi) A forum that brings together Judges and Prosecutors and all the other stakeholders should be organised to discuss water issues in order to identify challenges and propose solutions in the sector

1.8 Acknowledgement

The Committee wishes to record its appreciation to the Office of the Speaker and the Clerk of the National Assembly for facilitation. The Committee is grateful to the National Congress of the Federative Republic of Brazil, the Kenya Embassy in Brazil, the World Water Council and other stakeholders for making the World Water Forum a success.

On behalf of the Members of the Environment and Natural Resources Committee, I beg to table the report of the Committee on the Conference attended on 18th to 23rd March 2018 at Brasilia, Brazil.

SIGN: 

Hon. (Eng) Paul Musyimi Nzengu, M.P.

LEADER OF DELEGATION

Date: 25-7-2018

2.0 THE 8TH WORLD WATER FORUM

2.1 Background

The 8th World Water Forum was held in Brasilia, Brazil, from March 18 to March 23, 2018. The Forum is an important water event that gathers Heads of States and Governments, Ministers, Members of Parliament, Members of the Judiciary, representatives of private companies, non-governmental organizations, and universities, as well as international institutions and the civil society.

For the fourth consecutive time, the World Water Forum has held, as part of its Political Process, a Parliamentary Conference dedicated to the theme “The role of Parliaments and the Right to Water”. It took place on March 20th, at the Political Arena of the Ulysses Guimaraes Convention Center. The Conference aimed to discuss the Sustainable Development Goals, adopted in September 2015 by the United Nations, specifically SDG 6, related to water, as well as search for mechanisms to implement and carry on the Agreement on Climate, signed in Paris, during COP 21.

The Parliamentary Conference was under the coordination of a Special Committee of the Federal Senate of Brazil, created for the purpose within its Foreign Affairs Committee. It was chaired by Senator Jorge Viana, who is also Chairman of the National Congress Joint Committee on Climate Change.

The World Water Forum was organized by the World Water Council (WWC), the Brazilian Ministry of the Environment (MMA), represented by Brazil's National Water Agency (ANA), and by the Government of the Federal District, represented by the Regulatory Agency for Water, Energy and Basic Sanitation of the Federal District (Adasa).

The 8th World Water Forum had five processes: Political, Thematic and Regional; as well as a Sustainability Focus Group and a Citizen’s Forum. The World Water Forum also held a Fair and Exhibition, where all stakeholders had the opportunity to showcase their experiences, products and contributions.

The seven previous editions of the World Water Forum were held in Marrakesh (Morocco, 1997), The Hague (Netherlands, 2000), Kyoto (Japan, 2003), Mexico City (Mexico, 2006), Istanbul (Turkey, 2009), Marseilles (France, 2012), and Gyeongju and Daegu (South Korea, 2015).

2.2 Brazil

Brazil or officially the Federative Republic of Brazil has over 208 million people and covers 8.5 million square kilometres. Its capital is Brasilia. Its economy is the world's eighth-largest by both nominal GDP and GDP (PPP) as of 2017.

In Brazil, the President is both head of state and head of government of the Union. A presidential term runs for four years with a limit of two successive terms. The National Congress is the Federation's bicameral legislature, consisting of the Chamber of Deputies and the Federal Senate.

Brasilia is Brazil's seat of government and has achieved the World Cultural Heritage designation by UNESCO. It replaced Rio de Janeiro as Brazil's center of government in 1960 under President Juscelino Kubitschek, architect Oscar Niemeyer, urban planner Lucio Costa and landscape architect Burle Marx.

3.0 CONFERENCE PARTICIPATION

3.1 Opening Ceremony

The opening was attended by 12 heads of State and Government, as well as high-level international authorities, and the event had the participation of representatives of important international bodies such as the United Nations and its agencies, European Union, World Bank, IDB, Portuguese Speaking Countries (CPLP), OECD among others.

3.2 The Parliamentarian Conference

3.2.1 Parliamentary Manifesto

At the Parliamentary Conference held on 20th March 2018, 134 parliamentarians from 20 nations produced the Parliamentary Manifesto. Apart from the National Assembly delegation, the Senate Standing Committee on Land, Environment and Natural Resources were represented in the conference by two members of their Committee. They were Senator Paul Githiomi Mwangi and Senator George Khaniri.

The Parliamentary Conference recognized the importance of the efforts of parliamentarians to ensure water security, universal access to drinking water, elimination of inequalities and promotion of sustainable development.

Senator Jorge Viana, the President of Brazilian Senate, underscored the importance of water to people and revealed that Brazil has plans to amend the Constitution to provide for the right to water in the Brazilian Constitution.

You Seung-hee, a Member of South Korea National Assembly, informed the participants that a fifth of Korea's population lives in Seoul, its capital city. This has exerted pressure on Korea's sustainable access and use of water. In the last 40 years, South Korea has rapidly urbanised. During drought seasons, some parts of the country have been subjected to water rationing.

The Governor of the Federal District, Rodrigo Rollemberg, invited the participants and revealed that six years ago, Senator Jorge Viana and others had lobbied for the Forum to be held in Brasilia. He underscored the role of Parliamentarians in drafting legislation and invited the delegates to visit the Citizen Village.

Pedro Soares from Portugal indicated that Portugal had made significant progress in provision of clean and safe water. He indicated that there was a law on non-privatization of water in Portugal and a regime of social tariffs for those who can't pay to access water. He also said that lack of water is a form of violence. Portuguese Parliament had enacted laws on water use and recycling. He also pointed out the importance of international cooperation, for instance the impact of relations between Portugal and Spain on access to water.

Sophie Okone from French Republic expressed her gratitude on the contributions made by legislators on the right to water and its access. She observed that there was an increasing pressure on water resource in the world due to climate change.

Abouda Samaj Kayou, Vice President of Council of Councillors of Morocco, observed that the GDP of countries were going down because of lack of water. He quoted passages about water from the Quran. He pointed out the important roles played by Parliament and the Executive in the provision of water to citizens. He indicated that Morocco had enacted legislations on water.

Hon. (Eng) Paul Nzengu, MP, enlightened the participants on the role of the Kenyan Parliament on right to water to the Kenyan people. He indicated that Kenya promulgated its new Constitution in 2010. The water sector was regulated by the Water Act (No. 8 of 2002) but was repealed by the Water Act 2016. The reason for the new Act of Parliament was because the new Constitution introduced devolution and that the water sector needed a new regime to address the changes that had occurred since 2002.

Senator Githiomi Mwangi informed the participants that Kenya has a water regulatory framework. The latest law was the Water Act 2016 (No. 43 of 2016). He indicated that the major challenge that the country faced was sustainable use of water.

The proposed text of the Parliamentarians' Manifesto had been circulated to the Parliamentarians for their input and agreement. Later in the afternoon, the Parliamentarians signed the Parliamentarians' Manifesto (*Annex 2*).

The Parliamentarians committed to supporting the following initiatives to realize the human right to drinking water and sanitation:

1. Request that water security and sanitation be priorities in the allocation of budgetary and non-budgetary, national and international resources, to countries with difficult access to safe drinking water and sanitation. Encourage other countries to cooperate, including through water infrastructure and technology transfer, especially for the most vulnerable populations, traditional populations, indigenous and tribal peoples.
2. Encourage international organizations to increase the share of their budgets in the realization of the human rights to drinking water and sanitation, as well as for the application of the resources of the Climate Change Adaptation Fund to prioritize investments in water and sanitation. Offer more concessional funding to solve water and sanitation problems.

3. Promote the adoption of the necessary legislative framework and public policies to ensure water governance, the enjoyment of the human right to drinking water and sanitation, as well as work for the implementation and monitoring of public policies that improve the rational use of water, water efficiency in production processes, research and innovation in the areas of water and sanitation.
4. Support the ratification and implementation of international agreements on the issues of environment, forest, water and sanitation to integrate the global effort in the fight against climate change, the destruction of forests, and pollution of the environment and water resources, as well as ensure the protection of the rights of the most vulnerable populations. Above all, support policies to address the effects of climate change on water security to reduce the vulnerability of human populations and ecosystems.
5. Defend sustainable development so that the use of water by the agricultural, industrial and urban sectors is efficient and equitable, minimizing waste and negative impacts to surface and groundwater. Negative socio-environmental impacts on production costs need to be internalized.
6. Ensure the progressive elimination of inequalities in the fulfilment of the human rights to drinking water and sanitation, guaranteeing priority in the allocation of resources to the most vulnerable populations.
7. Promote debates and conferences with civil society on water and sanitation to share water use and management experience; improve the decision-making level of public policies, ensuring a significant participation from civil society, as well as educational and research institutions; mainstream water and sanitation in basic education.
8. Ensuring a broad participation of civil society organizations is fundamental to deepen the understanding of current challenges in the elimination of inequalities, realizing the right to drinking water and sanitation through policies to improve water security.
9. Promote the necessary legal and economic security to strengthen the public and private sectors responsible for water supply and sanitation services, with a focus on universalization, transparency and tariff moderateness; guarantee transparency and social control over the sanitation and drinking water supply services.
10. Strengthen the International Network of Parliamentarians for Water by supporting cooperation amidst countries to solve problems related to water and sanitation, exchange best legislative practices, as well as initiating and refining water-related legislative proposals. Lead negotiations on cooperation, public policies and public budgets.
11. Ensure the debate in the Parliaments so that the human right to drinking water and sanitation is included in national legislation, in the Constitution or in unconstitutional legislation.

Further, the Parliamentarians agreed to implement the following initiatives collaboratively:

- committing to adopting the actions established in this Manifesto to strengthen the role of parliaments in the universalization of the human right to drinking water and sanitation.
- Prioritizing measures to mitigate climate change that is related to water security, protection of forests, incorporating water as a central component of adaptation actions.
- Committing to working globally with the many partners who promote the implementation of SDG 6 and guarantee human right to drinking water and sanitation.
- Requesting that all Parliamentarians support the proposals contained in the Manifesto, in the Paris Agreement and in the One Planet Summit, before the United Nations General Assembly.

3.2.2 Meeting with Judges and Prosecutors

The Conference of Judges and Prosecutors happened in the auditorium Planalto do Centro at the Ulysses Guimarães Convention Center. The event was attended by the President of the Brazilian Supreme Court (STF), Carmen Lucia, and the Prosecutor General of the Republic, Raquel Dodge. It was attended by 83 judges, prosecutors, and experts from 57 countries and as a result signed the Brasilia Declaration of Judges on Water Justice (*Annex 3*)

Raquel Elias Ferreira Dodge highlighted the importance of justice and water. She quoted Justice Antonio Herman Benjamin, Justice of Brazil's Superior Court of Justice, who had said that, "humankind is thirsty of justice and water". She lauded the organisers of the 8th World Water Forum for including a segment on Judges and Prosecutors and encouraged future organisers to retain it in the program.

The Justice of Brazil's Superior Court of Justice (STJ), Herman Benjamin, coordinated the first panel of the event. He postulated that water is an instrument of peace and informed the participants that the Global Institute for Environment had been created in the Attorney-General's office in Brazil. He observed that a prosecutor's role lay in punishing crime but the challenge remained in preventing damage to the environment. He pointed out the unique role of judicial officers in interpreting laws and urged them to use the power responsibly. He encouraged Judges and Parliamentarians to build synergy and build techniques that work and discard those that don't. He concluded by saying that humankind is thirsty of justice, water and rule of law.

Maria Osmarina Marina Silva Vaz de Lima, who was Brazil's former Environment Minister praised the Declaraton signed by members from various countries. She stated that water should be

treated as an economic value and be seen as a vital, symbolic and of religious value to those who believe. She warned that the world was faced with an unprecedented crisis and that humanity stood to benefit from the advantage of pool of experience to address the modern challenges which past civilisations did not face. She proposed solutions that merged both traditional and modern methods, ethical and legal.

Pedro Soares, Member of the Assembly of the Republic of Portugal, lauded the Parliamentary Declaration that was to be signed on that day. He highlighted the importance of citizen participation in matters related to water and the need to have a strong and active society. He pointed out the pollution of River Tigris and the positive role that social media played in highlighting the pollution. He also proposed that the capacity of water authorities should be enhanced in collecting evidence of polluters.

Arnold Kreilhuber, Head of UN International Environmental Law Unit, proposed that the discourse on environmental law should be changed so that it is communicated well to all the people. He regretted that the economic costs of environmental degradation, its debate and effect, has not reached the wider public. He also pointed out four environmental activists are killed every week.

The Global Institute of the Public Prosecutors Office, which brought together members of public prosecution offices of the various nations of the world around topics related to the protection of natural resources signed “Declaration of the Public Prosecutor Office on the Right to Water”, which was signed by nine countries. (*Annex 4*)

3.3. Presentation: The Participatory Watershed Governance of Japan

The Secretary General of Japan Water Forum, Dr Kotaro Takemura, made a presentation to participants. These were the highlights of his presentation:

- The Feudal Lord governed the watershed with the strong power before the modern times (1200- 1800)
- Shingen Takeda was one of the strongest warring Lords
- Paddy Field has suffered drought many times in Koufu basin resulting in several conflicts within nearby villages

- The presentation had a diagram of a water-sharing facility between three villages designed by Shingen Takeda. A well would be divided into three segments from which water would be drawn by different villages. The technology of water sharing has been improved year by year and this technology has spread to the whole of Japan
- Japan changed to nation-state at 1870. The population and the economy has been growing rapidly in modern times
- The laws on water in Japan include: river law, drinking water law, land improvement law, water resources development law, water pollution prevention Acts, control of ground water law, industry water law, law for conservation of lake water quality, sewerage law, among others
- The presenter proposed that the gaps in access to water could be bridged by all stakeholders, NGOs and private companies through proper governance
- A new Act to govern water in Japan was enacted in 2014
- The Basic Act on Water Cycle Policy provides for the following: basic ideas of the law; water cycle as important commodity for a sustainable society; sound water cycle which should be maintained in future, water cycle as a public property; integrated management of water cycle; international contribution to water cycle management; responsibilities of national government, local governments, business sectors and Japanese people; and national day for water cycle
- Basic Act on Water Cycle Policy regulates the water cycle Council by all stakeholders of watershed
- The basic mission of the Basic Act on Water Cycle Policy is conservation and wise use of the water of the river basin
- The central players in the Basic Act Water Cycle Policy are all stakeholders in the river basin, administrations, farmers, private companies and residents
- The objectives of the Act are: 1) safety against floods 2) conservation and wise use of surface and groundwater 3) knowledge of water cycle from mountains to the sea; 4) maintenance of traditional culture of the river basin
- Japan has in place the Water Cycle Council composed of all stakeholders

3.4 Presentation: Engaging with International Mechanisms to Realize the Human Rights to Water and Sanitation

The special session reflected on the role of international mechanisms and human rights special procedures in ensuring effective realization of the human rights to water and sanitation with the involvement of the public and civil society.

The Speakers during the presentation were: Mr. Leo Heller, Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation; Mr. Jorge Vinuales, Chair of the Compliance Committee of the UNECE- WHO/ Europe Protocol on Water and Health; Mr. Claudio Bacigalupi, Head of Water Sector, DG International Cooperation and Development, European Commission and Mr. David Boys, International Public Services.

The session objectives were two-fold: first, to engage in moderated discussion on the perspectives, experiences and challenges with translating the human rights to water and sanitation into practice; and two, to clarify the potential and limitations of implementing the human rights to water and sanitation.

Mr. Claudio Bacigalupi outlined the role of the European Community on the rights of people to water and sustainable water management.

Mr. Leo Heller discussed the role of Special Rapporteur on human rights to safe drinking water and sanitation. He generally educated the participants on the role of the Special Rapporteur such as taking stock of compliance on State Compliance on their obligations, reporting to the United Nations annually and preparing thematic reports. He indicated that the collaboration between his office and civil societies was important in evidence-gathering and there was need to establish more links.

Mr. David Boys indicated that he had attended all the eight World Water Fora. He questioned the water regulatory regimes which do not favour the poor people. He indicated that water service providers had an obligation to their stakeholders and not to the general public since their main motive was to make profit. He observed that commercial contracts were kept in secret and that the general public was not aware of their terms. He proposed that water should be kept out of market

dynamics and called for ‘remunicipalization’ of water by taking it back to the citizens. He also proposed that public services should be kept out of trade agreements. However, Mr. Leo Heller and Mr. Claudio indicated that circumstances in different States were varied and that one could not prescribe one solution to fit all of them. Mr. Claudio pointed out that there should be an equilibrium between public sector and private sector when distributing water and that there success stories in both.

Prof. Jorge Vinuales discussed the provisions of the Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes. He indicated that the protocol was the first and only international legal agreement linking sustainable water management and the prevention, control and reduction of water-related diseases in Europe.

He indicated that the obligations for States under the Protocol are as follows:

- (i) States shall ensure adequate supplies of wholesome drinking-water;
- (ii) States shall secure adequate sanitation of a standard that sufficiently protects human health and the environment;
- (iii) States shall protect water resources used as sources of drinking-water, and their related water ecosystems, from pollution;
- (iv) States shall provide adequate safeguards for human health against water-related diseases;
- (v) States shall establish and maintain effective national and local surveillance and early warning systems for monitoring and responding to outbreaks or incidents of water-related diseases.

He highlighted the functions of the Compliance Committee which includes review of reports, giving advice, receipt of complaints which does not need *locus standi*, and interpreting the Protocol.

3.5 Other presentations

Apart from the Parliamentarian Conference, there were other important meetings that happened during the 8th World Water Forum. These were the Conference of Judges and Prosecutors, the

Ministerial Conference and the local and regional authorities Conference. From these, there were important declarations that were made and which have been annexed to this report.

3.5.1 The Conference of Judges and Prosecutors

(a) Conference of Judges

The Conference of Judges and Prosecutors was attended by 83 judges, prosecutors, and experts from 57 countries. The Judges signed the *Brasilia Declaration of Judges on Water Justice: 10 Principle Declaration (Annex 3)*. In the Declaration, the Judges agreed to be guided by ten principles in promoting water justice through application of water law and the environmental rule of law. The ten principles are listed below:

Principle 1 – Water as a Public Interest Good

The State should exercise stewardship over all water resources, and protect them, in conjunction with their associated ecological functions, for the benefit of current and future generations, and the Earth community of life.

Principle 2 – Water Justice, Land Use, and the Ecological Function of Property

Because of the close inter-linkages between land and water and the ecological functions of water resources, any person with a right or interest to use water resources or land has a duty to maintain the ecological functions and integrity of water resources and related ecosystems.

Principle 3 – Water Justice and Indigenous and Tribal Peoples and Mountain and Other Peoples in Watersheds

(a) Indigenous and tribal peoples' rights to and relationships with traditional and/or customary water resources and related ecosystems should be respected, and their free, prior, and informed consent should be required for any activities on or affecting water resources and related ecosystems.

(b) In view of the contribution of mountain and other peoples living in upper water catchments to the conservation of ecological and hydrological functioning and integrity of water resources and

related ecosystems in the entire water basin, appropriate mechanisms should be developed and implemented to encourage and facilitate people to undertake such conservation.

Principle 4 – Water Justice and Prevention

To avoid costly ex-post measures to rehabilitate, treat or develop new water supplies or water-related ecosystems, prevention of future harm to water resources and to related ecosystems should take precedence over remediation of past harm, having regard to best available technologies and best environmental practices.

Principle 5 – Water Justice and Precaution

The precautionary principle should be applied in the resolution of water-related disputes. Notwithstanding scientific uncertainty or complexity regarding the existence or extent of risks of serious or irreversible harm to water, human health or the environment, judges should uphold or order the taking of the necessary protective measures having regard to the best available scientific evidence.

Principle 6 – In Dubio Pro Aqua

Consistent with the principle in dubio pro natura, in case of uncertainty, water and environmental controversies before the courts should be resolved, and the applicable laws interpreted, in a way most likely to protect and conserve water resources and related ecosystems.

Principle 7 – Polluter Pays, User Pays and Internalisation of External Environmental Costs

Environmental factors should be included in the valuation and pricing of water resources and their services, including:

(a) polluter pays principle – those who cause water pollution and ecosystem degradation must bear the costs of containment, avoidance and abatement, and of remedying, restoring and compensating for any harm caused to human health or the environment,

(b) user pays principle – those who use water resources and their services in commerce or industry should pay prices or charges based on the full life cycle of costs of providing the water resources and their ecosystem services, including the use thereof, and the ultimate disposal of any waste; charges should also be levied on domestic use of water services to reflect the costs of providing

such services, including the environmental costs, though appropriate social protection measures should be employed to ensure that those unable to pay such costs are not deprived of adequate water supply and sanitation services, and

(c) *enduring obligations* – legal obligations to restore ecological conditions of water resources and their ecosystem services are binding on any user of the resource and any owner of the site of the resource, and liability is not terminated by the transfer of use or title to others (propter rem obligation).

Principle 8 - Water Justice and Good Water Governance

Consistent with the proper role of an independent judiciary in the upholding and enforcing of the rule of law, and ensuring transparency, accountability and integrity in governance, the existence of good water laws and their effective implementation and enforcement are essential for the protection, conservation and sustainable use of water resources and related ecosystems.

Principle 9 – Water Justice and Environmental Integration

Environmental and ecosystem considerations should be integrated into the application and enforcement of water law. In adjudicating water and water-related cases, judges should be mindful of the essential and inseparable connection that water has with the environment and land uses, and should avoid adjudicating those cases in isolation or as merely a sectoral matter concerning only water.

Principle 10 – Procedural Water Justice

Judges should strive to achieve water justice due process by ensuring that persons and groups shall have appropriate and affordable access to information on water resources and services held by public authorities, the opportunity to participate meaningfully in water-related decision-making processes, and effective access to judicial and administrative proceedings and to remedy and redress.

(b) Conference of Prosecutors

The Global Institute of the Public Prosecutors Office, which brought together members of public prosecution offices of the various nations of the world around topics related to the protection of natural resources, and they also drew up the *Declaration of the Public Prosecutor Office on the*

Right to Water, which was signed by nine countries but which as at the time of writing this report was in Portuguese language.

3.5.2 The Ministerial Conference

The Ministerial Conference was attended by 56 Ministers and 14 Deputy Ministers from 56 countries and approved the *Ministerial Declaration: An Urgent Call for Decisive Action on Water (Annex 4)*. The document defines priority actions to meet the challenges related to access to water and sanitation. The Declaration welcomed the work of the National Governments; Local and Regional Authorities; Parliamentarians; and Judges and Prosecutors Subprocesses of the 8th World Water Forum and their contribution to the dialogue on water issues.

The highlights of the commitments that were made in the Ministerial Declaration are as follows:

- i) Invitation of the High Level Political Forum on Sustainable Development (HLPF) to note, in its review of Sustainable Development Goals, including SDG 6, the outcomes of the political, thematic, regional, sustainability and citizens processes of the 8th World Water Forum;
- ii) Invitation of the UN system to strengthen its support to countries in water matters and to improve the integration and coordination of the work of the United Nations on the water related goals and targets under its sustainable development pillar;
- iii) Encourage Governments to establish or strengthen national integrated water resources management policies and plans, including strategies for adaptation to climate change, with a view to achieving universal and equitable access to safe and affordable drinking water, to adequate and equitable sanitation and to reducing water pollution, and to protect and restore water related ecosystems, in line with SDG 6;
- iv) Support the strengthening of transparent, effective, inclusive and accountable national and, where appropriate, subnational water institutional arrangements, with participation of all relevant stakeholders and consideration of local circumstances in the policy-making process, while fostering necessary partnerships, confidence building, exchange and sharing of information and experiences among public, private and civil society actors;

- v) Mobilization and allocation of sufficient financial resources from multiple sources for the promotion of and investment in integrated and sustainable water management, especially oriented towards developing countries and addressing their specific challenges, vulnerabilities and risks, including disaster risk reduction;
- vi) Develop and share solutions including Integrated Water Resources Management and nature-based solutions, where applicable, to address the most pressing water and sanitation challenges, through research and innovation, upscaling cooperation on capacity building and technology transfer and other means of implementation and considering the impact of climate change;
- vii) Encourage transboundary cooperation based on win-win solutions, in accordance with applicable international law, namely relevant bilateral, regional and international instruments countries are party to;
- viii) Reinforce the urgent need to respect the right of every human being, irrespective of their situation and location, to safe drinking water and sanitation as fundamental human rights, provided for by the international human rights law, the international humanitarian law and the relevant international conventions as applicable
- ix) Promote the potential of the young generation as agents for change and innovation in the search for solutions for water and sanitation challenges and implement and share water education policies and best practices on water and sanitation, benefiting from existing international centers as well as from UNESCO's expertise and network, including the International Hydrological Programme;
- x) Take advantage of the networks and partnerships formed during the 8th World Water Forum, under its various processes, to promote the implementation of this declaration.

3.5.3 Local and regional authorities conference

Local and regional authorities launched the *Call to Action of Local and Regional Governments on Water and Sanitation of Brasilia (Annex 5)*. The conference had the participation of 150 city mayors, governors, and state legislators. The resolutions that were made in the Declaration were:

- i) To promote sensitive integrated water practices, taking into account basic human rights and services and gender approaches, putting sanitation and access to quality water at the top of the water agenda;
- ii) To bring forward legislation that enables fair, efficient and sustainable use of water resources, promote integrated urban water practices and energy efficiency, making use of technology when possible;
- iii) To strengthen and increase decentralized funding and innovative finance mechanisms for water and sanitation projects;
- iv) To promote urban water resilience through planning out risk and climate change adaptation and mitigation and protection of sensitive areas;
- v) To strengthen the capacity of local governments and citizens in water sensitive governance.

Although Kenya no longer has local governments and local authorities, the Declaration is important because the county governments can still obtain guidance from the Declaration.

3.5 Closing Ceremony

The closing ceremony of the 8th World Water Forum was held at the Ulysses Guimarães Convention Center on Friday, 23rd March 2018. The flag of the World Water Forum was passed to the delegation of Senegal, where the 2021 edition of the World Water Forum will be held.

During the ceremony, the Charité Chrétienne Pour Personnes en Détresse (CCPD), a Christian Charity for People in Need organization, based in Togo, received the Kyoto Water Prize. Christian Charity for People in Need helps individuals and community groups to improve access to safe drinking water and sanitation through the construction and remodelling of drinking water and sanitation facilities.

It was revealed that the next World Water Forum will be held in Senegal in 2021. The following exchanged gifts with the members of the Preparatory Committee of the 9th World Water Forum in Senegal: Cristiane Dias Ferreira, the representative of the Federal Government, Director-President of the National Water Agency (ANA), the Governor of the Federal District, Rodrigo Rollemberg, the President of the World Water Council, Benedito Braga, the Executive Director of the 8th World

Water Forum, Ricardo Andrade and the co-president of the Organizing Committee of the 8th World Water Forum, Paulo Salles, along with other members of the organizing committee.

In his speech, the Minister for Water and Sanitation of Senegal, Mansour Faye, praised the 8th edition of the event. He stated that the results of the Forum in Brasilia have enlightened the participants that sharing water requires appropriate cooperation mechanisms to build a world of peace and stability around the shared basins and aquifers.

The theme of the 9th World Water Forum in Senegal will be water security for peace and development.

4.0 MEETING WITH THE KENYAN AMBASSADOR IN BRAZIL

The Kenyan Ambassador in Brazil, Amb. Isaac Ochieng, had welcomed the delegation consisting of the National Assembly, the Senate, the Governor of Vihiga, H.E. Dr Wilber K. Ottichilo and officials from the Ministry of Water and Sanitation. The team paid a courtesy call at the Kenyan Embassy in Brazil.

The Ambassador congratulated the Members on being elected. The highlights of his speech were:

- i) Brazil is one of the largest producers of sugarcane in the world and their farming is mostly large-scale
- ii) Brazil is the fourth largest car market in the world
- iii) Brazil is the third largest manufacturer of civil aircraft, after Airbus and Boeing
- iv) Business does not stall in Brazil even during campaign period
- v) He encouraged the delegation to build trade relations with Brazil and to borrow best practices from them

The Ambassador saw the delegation off at the airport.

5.0 OBSERVATIONS

The delegation made the following observations:

- i) The subject of water is not a national issue but an international one; therefore, although national legislations on water exist in the East Africa Community, there is no legislation yet on water in the East Africa Legislative Assembly
- ii) The 9th World Water Forum will be held in Senegal in 2021 and this will be the second time that Africa will host the event after it was held in Marrakesh, Morocco in 1997
- iii) After the Kenyan delegation made presentations to the World Water Council, it was resolved that Kenya will be involved in the preparatory processes of the 9th World Water Forum to be held in Senegal in 2021
- iv) Kenya has not hosted any World Water Forum event since its inauguration in 1997
- v) The Parliamentarians' Manifesto was signed by Parliamentarians who attended the 8th World Water Forum, including the members of the delegation and two Senators from Kenya
- vi) Parliament enacted the Water Act in 2016 which is aligned to the Constitution of Kenya 2010 but its provisions needs to be tested out and fully implemented
- vii) Debates on water with all stakeholders have been minimal, disjointed and not fully inclusive of all stakeholders
- viii) Kenya has either organised few or no forum that brings together Judges, Prosecutors and other stakeholders, including Parliamentarians, to discuss water issues
- ix) The legislative institutions within the EAC have not held a common approach to water in their legislative endeavours and collaboration amongst them have been missing

5.0 RECOMMENDATIONS

The delegation makes the following recommendations:

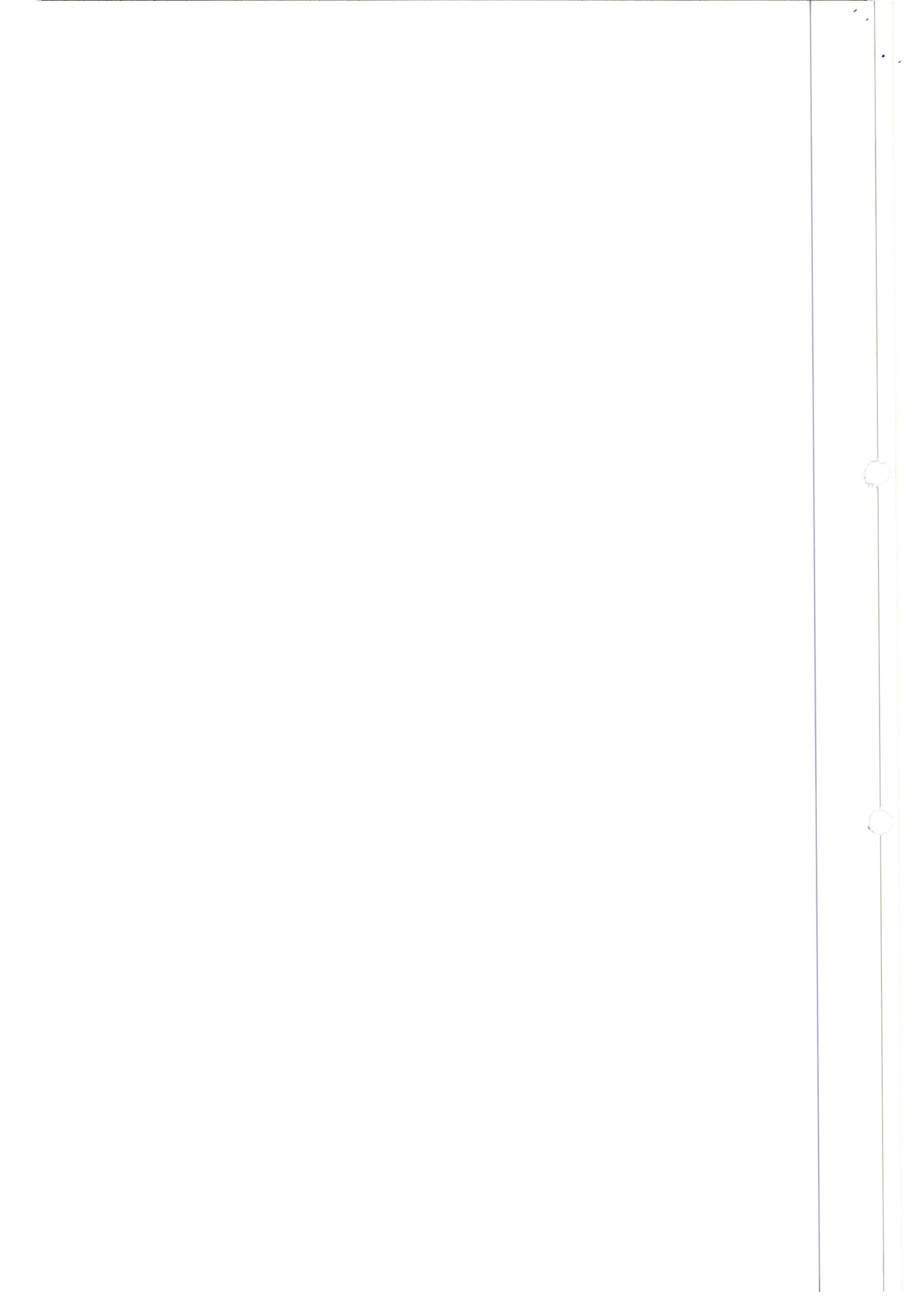
- i) There is need to have an EAC legislation on water since regulation of water requires a common approach traversing countries
- ii) That Kenya takes note of the 9th World Water Forum to be held in Senegal in 2021 and participates effectively, particularly Members of the National Assembly
- iii) That Kenya lobbies to have the 10th World Water Forum to be held in Kenya in 2024 after the 9th World Water Forum scheduled to be held in Senegal in 2021

- iv) Water security and sanitation should be prioritised in the budgetary allocations
- v) Water infrastructure and technology transfer should be prioritised
- vi) Although Parliament enacted the Water Act in 2016, there is need to review it in order to address any difficulties in its implementation and to ensure that the National Assembly Implementation Committee ensures its effective implementation
- vii) The National Assembly supports the ratification and implementation of international agreements on the issues of environment, forest, water and sanitation to integrate the global effort in the fight against climate change, the destruction of forests, and pollution of the environment and water resources, as well as ensure the protection of the rights of the most vulnerable populations
- viii) The National Assembly, the Executive and all relevant stakeholders should ensure the progressive elimination of inequalities in the fulfilment of the human rights to drinking water and sanitation, guaranteeing priority in the allocation of resources to the most vulnerable populations
- ix) The National Assembly, the Executive and all relevant stakeholders should promote debates and conferences with civil society on water and sanitation to share water use and management experience; improve the decision-making level of public policies, ensuring a significant participation from civil society, as well as educational and research institutions; mainstream water and sanitation in basic education
- x) The following should foster collaboration amongst themselves to solve problems related to water and sanitation, exchange best legislative practices, as well as initiating and refining water-related legislative proposals:
- Parliament of Kenya (National Assembly and Senate)
 - County Assemblies in Kenya
 - Parliament of Rwanda
 - National Assembly of Uganda
 - National Assembly of Tanzania
 - National Legislature of South Sudan
 - Parliament of Burundi

- xi) A forum that brings together Judges and Prosecutors and all the other stakeholders should be organised to discuss water issues in order to identify challenges and propose solutions in the sector

ANNEXES

Annex 1: Parliamentarian Conference Program





Political
Process

Parliamentarian
Conference

Parliamentarian Conference

"The Role of Parliaments and the Right to Water".

Date: March 20th, 2018

Venue: Political Arena (Centro de Convenções Ulysses Guimarães)

Program

09:00 – 09:40 Opening Ceremony

09:40 – 09:50 Photo Session

09:50 – 12:30 Plenary Session

12:30 – 14:30 Lunch

14:30 – 16:30 Plenary Session – Joint Session of Legislators, Judges and Prosecutors

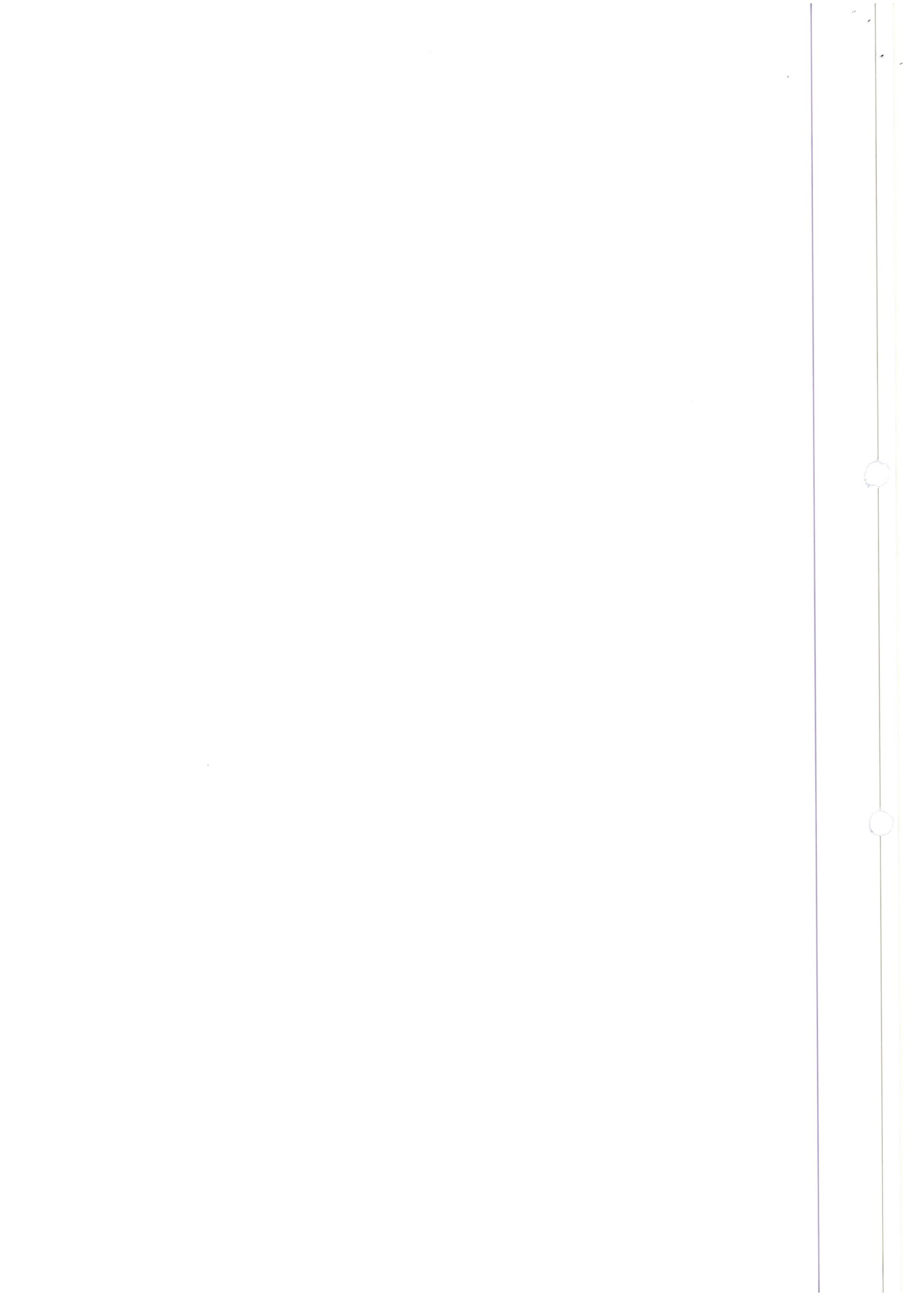
16:30 – 16:45 Break

16:45 – 17:45 Presentation of the Parliament Statement and Closing Ceremony

17:45 – 18:45 Visit to the National Congress of Brazil (Senate and House of Representatives)



Annex 2: Parliamentarians' Manifesto





Political
Process

Parliamentarian
Conference

8th World Water Forum

Conference on the Role of Parliaments and the Right to Water

PARLIAMENTARIANS' MANIFESTO

We, representatives of parliaments, participants of the 8th World Water Forum, gathered in Brasilia to discuss “The role of parliaments and the right to water”, on March 20, 2018, recognize the importance of the effort of parliamentarians to ensure water security, universal access to safe drinking water, elimination of inequalities and promotion of sustainable development. Within this context, we recall that:

- a) Water is an essential element for the maintenance of life with dignity, quality and health on the planet, for everyone’s development, the elimination of inequalities, the equilibrium of ecosystems, the production of food, the generation of clean energy and transportation.
- b) Access to drinking water and sanitation is a human right recognized by the United Nations (UN), according to resolution 64/292 of 2010. Its just and equitable universalization is one of the targets of Sustainable Development Goal 6, which must be achieved through public policies and adequate legislative frameworks to guarantee water security and the progressive elimination of inequalities, being the duty of all countries to ensure this right domestically.
- c) As the global population and water consumption grow and inequitable practices persist, access to drinking water is becoming increasingly expensive and complex. All countries must reverse this negative trend and make the SDG vision a reality for all. Developing countries need to prioritize the right to drinking water and sanitation, but they need international cooperation to ensure this human right. On the other hand, developed countries have enormous potential for reducing their water footprint.



Political Process

Parliamentarian Conference

- d) Multilateral collaboration and partnerships at the national and global levels - amidst parliaments, governments, civil society, academia, international organizations and the private sector - are essential to ensure that SDG 6 is achieved by 2030.
- e) The Paris Agreement, signed in 2015, and the Nationally Determined Contributions (NDCs) are of enormous importance in the fight against global warming, the effects of which affect hydrological regimes, make water availability less predictable and increase the incidence of extreme events, such as droughts and floods, which consequently result in food insecurity and migration, to the detriment of peace.
- f) Good water governance is based on participatory and democratic processes that need to give more value to decisions taken at the national and international levels. The waters must be shared internally and externally by nations in a peaceful, just and sovereign manner.
- g) There is a need to share innovations, experiences, solutions – in an ever cost-effective manner – based on nature, public policies, legal frameworks and good practices developed in each of the participating countries to ensure efficiency in water use, resilience and adaptation to climate change, as well as in solving the challenges of management and use of water at environmental, social, economic, cultural and educational levels.

We, the representatives of parliaments participating in the 8th World Water Forum, gathered in the conference to discuss “The role of parliaments and the right to water”, in Brasília, commit to supporting the following initiatives to realize the human right to drinking water and sanitation:

1. Request that water security and sanitation be priorities in the allocation of budgetary and non-budgetary, national and international resources, to countries with difficult access to safe drinking water and sanitation. Encourage other countries to cooperate, including through water infrastructure and technology

transfer, especially for the most vulnerable populations, traditional populations, indigenous and tribal peoples.

2. Encourage international organizations to increase the share of their budgets in the realization of the human rights to drinking water and sanitation, as well as for the application of the resources of the Climate Change Adaptation Fund to prioritize investments in water and sanitation. Offer more concessional funding to solve water and sanitation problems.

3. Promote the adoption of the necessary legislative framework and public policies to ensure water governance, the enjoyment of the human right to drinking water and sanitation, as well as work for the implementation and monitoring of public policies that improve the rational use of water, water efficiency in production processes, research and innovation in the areas of water and sanitation.

4. Support the ratification and implementation of international agreements on the issues of environment, forest, water and sanitation to integrate the global effort in the fight against climate change, the destruction of forests, and pollution of the environment and water resources, as well as ensure the protection of the rights of the most vulnerable populations. Above all, support policies to address the effects of climate change on water security to reduce the vulnerability of human populations and ecosystems.

5. Defend sustainable development so that the use of water by the agricultural, industrial and urban sectors is efficient and equitable, minimizing waste and negative impacts to surface and groundwater. Negative socio-environmental impacts on production costs need to be internalized.

6. Ensure the progressive elimination of inequalities in the fulfilment of the human rights to drinking water and sanitation, guaranteeing priority in the allocation of resources to the most vulnerable populations.

7. Promote debates and conferences with civil society on water and sanitation to share water use and management experience; improve the decision-making level of public policies, ensuring a significant participation from civil society, as



Political Process

Parliamentarian Conference

well as educational and research institutions; mainstream water and sanitation in basic education.

8. Ensuring a broad participation of civil society organizations is fundamental to deepen the understanding of current challenges in the elimination of inequalities, realizing the right to drinking water and sanitation through policies to improve water security.

9. Promote the necessary legal and economic security to strengthen the public and private sectors responsible for water supply and sanitation services, with a focus on universalization, transparency and tariff moderateness; guarantee transparency and social control over the sanitation and drinking water supply services.

10. Strengthen the International Network of Parliamentarians for Water by supporting cooperation amidst countries to solve problems related to water and sanitation, exchange best legislative practices, as well as initiating and refining water-related legislative proposals. Lead negotiations on cooperation, public policies and public budgets.

11. Ensure the debate in the Parliaments so that the human right to drinking water and sanitation is included in national legislation, in the Constitution or in nonconstitutional legislation.

In conclusion, we, the representatives of parliaments, participating in the World Water Forum, agree to implement the following initiatives collaboratively:

- We commit to adopting the actions established in this Manifesto to strengthen the role of parliaments in the universalization of the human right to drinking water and sanitation.
- We reinforce the need to prioritize measures to mitigate climate change that are related to water security, protection of forests, incorporating water as a central component of adaptation actions.



Political Process

Parliamentarian Conference

- We commit to working globally with the many partners who promote the implementation of SDG 6 and guarantee human right to drinking water and sanitation.
- We request that the representatives of our countries support the proposals contained in this Manifesto, in the Paris Agreement and in the One Planet Summit, before the United Nations General Assembly.

On the eve of the International Day of Forests, March 21, and World Water Day on March 22, we, representatives of parliaments, participating in the World Water Forum, present, through this Manifesto, contributions to the achievement of universal access to water and sanitation and commit to implementing them.

This Manifesto aligns with the achievement of the United Nations' Sustainable Development Goals and the goals set out in the Paris Agreement.

Brasília, March 20, 2018



**Annex 3: Brasilia Declaration of Judges on Water
Justice**





Global Judicial Institute
on the Environment



Brasilia Declaration of Judges on Water Justice **[10 Principle Declaration]**

8th World Water Forum
Brasília (Brazil)
21 March 2018

We, the judges who administer water justice and adjudicate cases regarding the utilization, management and protection of all forms of freshwater resources; equitable access to water and sanitation services; the impact of human activities on water and the environment; and restoration of ecological services and functions,

Acknowledging that availability of freshwater is rapidly becoming a pressing global problem, with global water requirements in 2030 expected to amount to double those in 2005 and to exceed current accessible and reliable supply levels by 40 per cent,

Aware that the impending water crisis, accelerated by the impact of climate change on the hydrological cycle, and on the availability of water resources to satisfy the demands of society and those of the environment, is also a crisis of governance and justice,

Recognizing that damage to water resources and related ecosystems, and deficiencies in water services provision, disproportionately impact vulnerable people and groups, including women, children, the elderly, the disabled, indigenous peoples and minority groups, and the need to mitigate these impacts,

Observing the importance of the hydrological cycle to ecological functioning; the interconnectedness of groundwater and surface water systems; and the importance of approaching water challenges on a watershed level,

Considering the fact that freshwater resources are a vital component of all aquatic and terrestrial ecosystems, and the fact that ecosystems provide a range of services essential to life,

Emphasising the key role of water resources in the maintenance and functioning of a range of critical ecosystems providing essential ecosystem services for the benefit of humanity and all life,



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Having regard to the urgent need to achieve a high level of environmental protection of water resources in the light of humankind's total dependence upon water – biologically, ecologically, socially, economically and culturally – for its survival,

Acknowledging that actions should not be permitted or undertaken when their potential adverse impacts on water services, water resources or related ecosystems are unreasonable, disproportionate or excessive in relation to the benefits derived therefrom, *Anticipating* the critical role of effective water resources management in societal adaptation to the challenges of climate change,

Recognizing that domestic use should have priority over other uses in the allocation of water,

Respecting the importance of indigenous knowledge and cultures and their contribution to water sustainability,

Acknowledging the contribution that mountain and other people in upper water catchments make in the stewardship of vegetation cover and maintenance of the hydrological cycle in water catchments,

Recognizing that the rights to life, health, and an adequate standard of living are central to all legal systems and are recognized under the International Bill of Rights, and that water and related ecosystems are critical to the realization thereof,

Affirming the public's trust in courts to protect and realise human rights in general, and the human right to water and sanitation in particular, and to sustain and preserve water resources,

Affirming that water law and the environmental rule of law are essential for the protection of water resources and ecosystems,

Cognizant of the important contribution of the legal community worldwide to the enforcement of standards and safeguards for environmental sustainability,

Also cognizant of the need for the independent and impartial application of water law and the environmental rule of law by judges, and therefore for judicial independence and integrity to be protected by co-equal branches of government, by civil society and by the business community,



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Further convinced that deficiency in the knowledge, skills and information relevant to water and environmental law is an important contributor to lack of effective implementation, development and enforcement of water and environmental law,

Aware of water's role in sustaining life and ecosystems, and of the importance of reflecting the interdependence of water and other elements of the natural environment, notably land, the sub-soil and forests, including the relevant ecosystemic connections, in the judicial resolution of water-related disputes and in the administration of water justice,

Reaffirming the values and principles enshrined in the Stockholm Declaration on the Human Environment (1972), the World Charter for Nature (1982), the Rio Declaration on Environment and Development and Chapter 18 of Agenda 21 (1992), the Earth Charter (2002), the Johannesburg Principles on the Role of Law and Sustainable Development adopted at the Global Judges Symposium (2002), the outcome document of United Nations Conference on Sustainable Development "The future we want" (2012), the Rio+20 *Declaration on Justice, Governance and Law for Environmental Sustainability* (2012), the Draft International Covenant on Environment and Development (2015), the OECD Principles on Water Governance (2015), the Oslo Principles on Global Obligations for Climate Change (2015), the Draft International Covenant on the Human Right to the Environment (2016), the IUCN World Declaration on the Environmental Rule of Law (2016) and the Draft Global Pact for the Environment (2017),

Mindful of the values and commitments reflected in "Transforming our world: the 2030 Agenda for Sustainable Development" (2015) and, in particular, in Sustainable Development Goal (SDG) 6 "Ensuring availability and sustainable management of water and sanitation for all", and in other SDGs instrumentally linked to water,

Welcoming the establishment of the Global Judicial Institute on the Environment, and its role in support of the independent application and enforcement of the environmental rule of law, in particular to water,

I – WE AGREE TO BE GUIDED BY THE FOLLOWING TEN FUNDAMENTAL PRINCIPLES IN PROMOTING WATER JUSTICE THROUGH APPLICATION OF WATER LAW AND THE ENVIRONMENTAL RULE OF LAW:

Principle 1 – Water as a Public Interest Good

The State should exercise stewardship over all water resources, and protect them, in conjunction with their associated ecological functions, for the benefit of current and future generations, and the Earth community of life.



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on the Environment



Principle 2 – Water Justice, Land Use, and the Ecological Function of Property

Because of the close interlinkages between land and water and the ecological functions of water resources, any person with a right or interest to use water resources or land has a duty to maintain the ecological functions and integrity of water resources and related ecosystems.

Principle 3 – Water Justice and Indigenous and Tribal Peoples and Mountain and Other Peoples in Watersheds

(a) Indigenous and tribal peoples' rights to and relationships with traditional and/or customary water resources and related ecosystems should be respected, and their free, prior, and informed consent should be required for any activities on or affecting water resources and related ecosystems.

(b) In view of the contribution of mountain and other peoples living in upper water catchments to the conservation of ecological and hydrological functioning and integrity of water resources and related ecosystems in the entire water basin, appropriate mechanisms should be developed and implemented to encourage and facilitate people to undertake such conservation.

Principle 4 – Water Justice and Prevention

To avoid costly *ex-post* measures to rehabilitate, treat or develop new water supplies or water-related ecosystems, prevention of future harm to water resources and to related ecosystems should take precedence over remediation of past harm, having regard to best available technologies and best environmental practices.

Principle 5 – Water Justice and Precaution

The precautionary principle should be applied in the resolution of water-related disputes. Notwithstanding scientific uncertainty or complexity regarding the existence or extent of risks of serious or irreversible harm to water, human health or the environment, judges should uphold or order the taking of the necessary protective measures having regard to the best available scientific evidence.

Principle 6 – In Dubio Pro Aqua

Consistent with the principle *in dubio pro natura*, in case of uncertainty, water and environmental controversies before the courts should be resolved, and the applicable laws interpreted, in a way most likely to protect and conserve water resources and related ecosystems.

Principle 7 – Polluter Pays, User Pays and Internalisation of External Environmental Costs

Environmental factors should be included in the valuation and pricing of water resources and their services, including:



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(a) polluter pays principle – those who cause water pollution and ecosystem degradation must bear the costs of containment, avoidance and abatement, and of remedying, restoring and compensating for any harm caused to human health or the environment, (b) user pays principle – those who use water resources and their services in commerce or industry should pay prices or charges based on the full life cycle of costs of providing the water resources and their ecosystem services, including the use thereof, and the ultimate disposal of any waste; charges should also be levied on domestic use of water services to reflect the costs of providing such services, including the environmental costs, though appropriate social protection measures should be employed to ensure that those unable to pay such costs are not deprived of adequate water supply and sanitation services, and (c) enduring obligations – legal obligations to restore ecological conditions of water resources and their ecosystem services are binding on any user of the resource and any owner of the site of the resource, and liability is not terminated by the transfer of use or title to others (*propter rem* obligation).

Principle 8 - Water Justice and Good Water Governance

Consistent with the proper role of an independent judiciary in the upholding and enforcing of the rule of law, and ensuring transparency, accountability and integrity in governance, the existence of good water laws and their effective implementation and enforcement are essential for the protection, conservation and sustainable use of water resources and related ecosystems.

Principle 9 – Water Justice and Environmental Integration

Environmental and ecosystem considerations should be integrated into the application and enforcement of water law. In adjudicating water and water-related cases, judges should be mindful of the essential and inseparable connection that water has with the environment and land uses, and should avoid adjudicating those cases in isolation or as merely a sectoral matter concerning only water.

Principle 10 – Procedural Water Justice

Judges should strive to achieve water justice due process by ensuring that persons and groups shall have appropriate and affordable access to information on water resources and services held by public authorities, the opportunity to participate meaningfully in water-related decision-making processes, and effective access to judicial and administrative proceedings and to remedy and redress.

II – WE ACKNOWLEDGE the importance of ensuring that water law and environmental law feature prominently in academic curricula, legal studies and training at all levels, in particular among judges and others engaged in the judicial process.



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III – WE ARE STRONGLY OF THE VIEW that there is an urgent need to strengthen the capacity of judges, lawyers and all persons who play a critical role at the international, regional, national and subnational level in the process of development, implementation and enforcement of water and environmental law, especially through the judicial process.

IV – WE ENCOURAGE collaboration among members of the Judiciary and others engaged in the judicial process within and across jurisdictions as essential to achieving a significant improvement in implementation and enforcement of water law and environmental law.

V – WE RECOGNIZE the need for water laws to: (a) progress, by being regularly revised and enhanced, and brought up to date, in order to protect, conserve and sustainably use water resources and related ecosystems, based on the most recent scientific knowledge and ethical considerations, and (b) not regress, by allowing or pursuing actions that have the effect of diminishing the legal protection of water resources and related ecosystems.

VI – WE REQUEST the Global Judicial Institute on the Environment to approve this Declaration.

(Disclaimer) This Declaration was presented at the Conference of Judges and Prosecutors on Water Justice at the 8th World Water Forum in Brasilia (Brazil) from 18-23 March 2018. This declaration reflects and encapsulates the discussions and the views held by participants of the High-Level Preparatory Meetings held in Rio de Janeiro (Brazil) on 8 December 2017 and the Conference of Judges and Prosecutors on Water Justice from 19-21 March 2018. It does not represent a formally negotiated outcome and does not necessarily reflect the views of any individual, institution, State, or country represented at the Forum, or their institutional positions on all issues, or the views of any judge or member of the Global Judicial Institute on the Environment or the WCEL Steering Committee.

**Annex 4: Ministerial Declaration: An Urgent Call for
Decisive Action on Water**





MINISTERIAL DECLARATION

AN URGENT CALL FOR DECISIVE ACTION ON WATER

We, the Ministers and Heads of Delegation assembled in Brasilia, Brazil, on 19th and 20th March 2018, during the Ministerial Conference of the 8th World Water Forum - "Sharing Water",

Recognizing that:

The Rio Declaration on Environment and Development, adopted in 1992; the outcome document of the United Nations Conference on Sustainable Development entitled "The Future We Want", adopted in 2012; the 2030 Agenda for Sustainable Development and its Sustainable Development Goals (SDGs), adopted in 2015; the Sendai Framework for Disaster Risk Reduction 2015-2030, adopted in 2015; the Paris Agreement adopted under the United Nations Framework Convention on Climate Change in 2015; and the "New Urban Agenda" (Habitat III), adopted in 2016, all represent major milestones for addressing global sustainable development challenges;

Countries have reaffirmed, in the outcome document of the United Nations Conference on Sustainable Development, Rio+20, their commitments regarding the human rights to safe drinking water and sanitation, to be progressively realized for their populations with full respect for national sovereignty;

Water is a cross-cutting element of sustainable development, and in the challenge of eradicating poverty;

Water resources are indispensable for all living beings and for living in harmony and in balance with the planet and its ecosystems, recognized by some cultures as "Mother Earth";

All countries need to take urgent actions to tackle water and sanitation-related challenges;

Cooperation at all levels and across all sectors and stakeholders including the sharing of knowledge, experiences, innovation and, where appropriate, solutions is key to promote sustainable water management and to explore synergies with the several water related aspects of the 2030 Agenda for Sustainable Development;

The key role of the United Nations in promoting international water cooperation at the global level. Several of the principles of the relevant global Conventions on water can be useful in this regard;

Efforts and initiatives taken at all levels should promote the adequate and inclusive participation of all relevant stakeholders, particularly the most vulnerable and including local communities and indigenous peoples, youth, girls and women and those affected by water scarcity;

The global hydrological cycle, geological processes, climate, oceans and ecosystems are highly interdependent

and all of them must be taken into consideration in the adoption of interdisciplinary, integrated and sustainable approaches for water management;

The Global High-Level Panel on Water and Peace has issued its report;

The World Water Forum, since its first convening in Marrakesh, in 1997, has contributed to the development of common understanding and to international dialogue on water, and has promoted local, regional and national action on integrated and sustainable water resources management worldwide.

We welcome:

1. The momentum provided by the 2030 Agenda for Sustainable Development, in particular SDG 6, to the 8th World Water Forum to foster action on initiatives related to water and sanitation;

2. The establishment of the High Level Panel on Water, co-convened by the Secretary General of the United Nations and the President of the World Bank and its contribution, and note the issuance of its report inspiring and promoting an integrated approach across governments and a new agenda for water action;

3. The adoption on 23rd December 2016 of UN General Assembly Resolution on International Decade for Action, Water for Sustainable Development, 2018-2028 and note the convening, pursuant to its paragraph 12, of two working-level dialogues to discuss improving the integration and coordination of the work of the United Nations on the water-related goal and targets;

4. The significant contributions of the 7th World Water Forum in the Republic of Korea, the Budapest Water Summit and the Stockholm Water Week to the preparation of the 8th World Water Forum;

5. The adoption in 2017 of UN Environment Assembly of the United Nations Environment Programme Resolution "Addressing water pollution to protect and restore water-related ecosystems";

6. The contribution made by all relevant stakeholders, including governments, civil society, academia, indigenous people and local communities and private sector, towards the development and implementation of positive and proactive policies and cooperation on water issues, as well as of solutions that can be shared among countries and across stakeholders, with the source to sea perspective and using water as a connector;

7. The work of the National Governments; Local and Regional Authorities; Parliamentarian; and Judges and Prosecutors Subprocesses of the 8th World Water Forum and their contribution to the dialogue on water issues;

8. The development of potential strategies to improve means of implementation, such as finance, capacity building, education and voluntary technology transfer on mutually agreed terms, to support the development of sustainable water uses, including non-conventional water resources;

9. The engagement of the private sector and public owned companies to continue or improve the adoption of efficient water and sanitation related sustainability measures including through concrete commitments and in accordance with national water laws;

10. The formal participation of judges and prosecutors, for the first time, in the World Water Forum, enriching discussions that have benefitted from participation of national governments; local and regional authorities as applicable; and parliamentarians;

11. The results and the follow up of voluntary actions of the "Implementation Roadmap" adopted during the 7th World Water Forum;

12. The convening of the 8th World Water Forum Ministerial roundtables, and we note the moderators' reports, prepared under their own responsibility.

We present an urgent call for decisive action on water and declare that now is time to:

13. Renew and reinforce the political commitment to ensure implementation of immediate and effective action towards overcoming water and sanitation-related challenges in particular water scarcity in the context of climate change adaptation and achieving related Sustainable Development Goals and targets;

14. Invite the High Level Political Forum on Sustainable Development (HLPF) to note, in its review of Sustainable Development Goals, including SDG 6, the outcomes of the political, thematic, regional, sustainability and citizens processes of the 8th World Water Forum;

15. Invite the UN system to strengthen its support to countries in water matters and to improve the integration and coordination of the work of the United Nations on the water related goals and targets under its sustainable development pillar;

16. Encourage Governments to establish or strengthen national integrated water resources management policies and plans, including strategies for adaptation to climate change, with a view to achieving universal and equitable access to safe and affordable drinking water, to adequate and equitable sanitation and to reducing water pollution,

and to protect and restore water related ecosystems, in line with SDG 6;

17. Support the strengthening of transparent, effective, inclusive and accountable national and, where appropriate, subnational water institutional arrangements, with participation of all relevant stakeholders and consideration of local circumstances in the policy-making process, while fostering necessary partnerships, confidence building, exchange and sharing of information and experiences among public, private and civil society actors;

18. Mobilize and allocate sufficient financial resources from multiple sources for the promotion of and investment in integrated and sustainable water management, especially oriented towards developing countries and addressing their specific challenges, vulnerabilities and risks, including disaster risk reduction;

19. Develop and share solutions including Integrated Water Resources Management and nature-based solutions, where applicable, to address the most pressing water and sanitation challenges, through research and innovation, upscaling cooperation on capacity building and technology transfer and other means of implementation and considering the impact of climate change;

20. Encourage transboundary cooperation based on win-win solutions, in accordance with applicable international law, namely relevant bilateral, regional and international instruments countries are party to;

21. Reinforce the urgent need to respect the right of every human being, irrespective of their situation and location, to safe drinking water and sanitation as fundamental human rights, provided for by the international human rights law,

the international humanitarian law and the relevant international conventions as applicable.

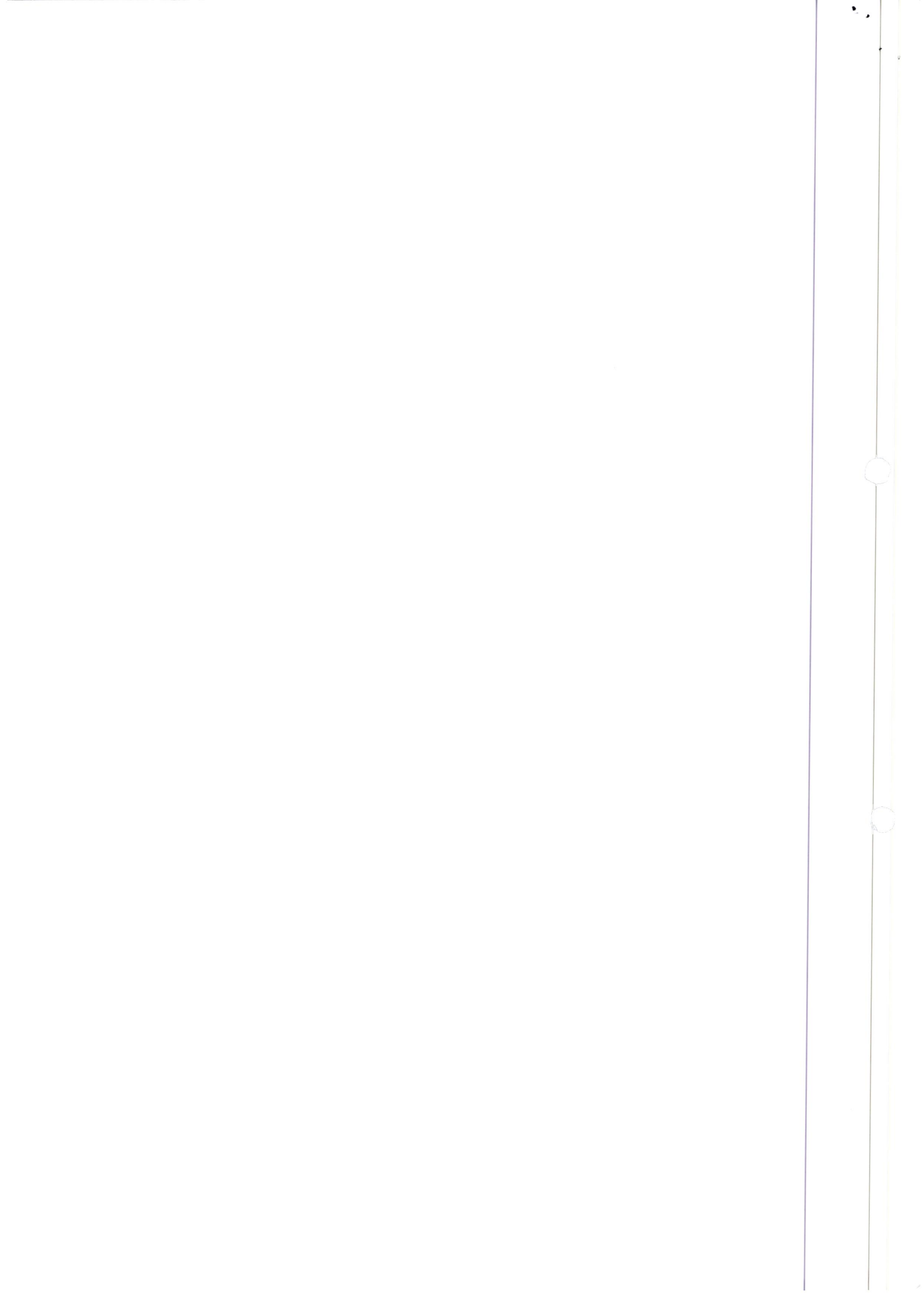
22. Promote the potential of the young generation as agents for change and innovation in the search for solutions for water and sanitation challenges and implement and share water education policies and best practices on water and sanitation, benefiting from existing international centers as well as from UNESCO's expertise and network, including the International Hydrological Programme;

23. Take advantage of the networks and partnerships formed during the 8th World Water Forum, under its various processes, to promote the implementation of this declaration.

We thank the people and the Government of Brazil, the Government of the Federal District and the World Water Council for the hosting of the 8th World Water Forum and its participants.



Annex 5: Call to Action of Local and Regional Governments on Water and Sanitation of Brasilia





Brasilia Local and Regional Governments Call for Action on Water and Sanitation

Considering the progress achieved by the local authorities present at the 4th Water World Forum in 2006, the Istanbul Water Consensus approved at the Local Authorities Forum during the 5th World Water Forum in 2009, the Message from Local and Regional Authorities at the 6th World Water Forum in 2012 and the Daegu-Gyeongbuk Water Action for Sustainable Cities and Regions approved at the 7th World Water Forum in 2015, as well as by the global development agendas, including Agenda 2030 and the Sustainable Development Goals, the New Urban Agenda and the Sendai Framework for Disaster Risk Reduction.

Taking into account that many international agreements recognize the major role that local and regional governments play for the achievement of the established goals;

We, local and regional authorities, call for action to implement the Local and Regional Agenda on Water and Sanitation, adopting a shared vision for a better and more sustainable future in which all people have equal rights and access to water and sanitation, and water is used and managed in a way to ensure a healthy and sustainable environment for future generations.

Gathered in Brasilia for the 5th Conference of Local and Regional Authorities for Water on 20 and 21 March 2018 during the 8th World Water Forum, we made an effort to connect and frame the most relevant recommendations and commitments previously made on the international agreements mentioned above and offer a list of what local and regional governments can do in order to achieve healthier and more prosperous cities and territories and to strengthen the capacities of decision-makers, local leaders, and practitioners to overcome local water and sanitation challenges.

We strongly encourage all stakeholders to apply the following 5 recommendations which resulted from what we have learned and built together over time globally:

1. Promote sensitive integrated water practices, taking into account basic human rights and services and gender approaches, putting sanitation and access to quality water at the top of the water agenda;
2. Bring forward legislation that enables fair, efficient and sustainable use of water resources, promote integrated urban water practices and energy efficiency, making use of technology when possible;
3. Strengthen and increase decentralized funding and innovative finance mechanisms for water and sanitation projects;
4. Promote urban water resilience through planning out risk and climate change adaptation and mitigation and protection of sensitive areas;



5. Strengthen the capacity of local governments and citizens in water sensitive governance.

In order to strengthen the implementation of water-related policy, programmes and initiatives at the local and regional levels, we will seek to develop and implement plans and goals for acting on these recommendations and consequently contributing to the fulfillment of the Sustainable Development Goals and the New Urban Agenda. We expect to promote a broad engagement with this Call for Action and to have it revisited and its progress evaluated at the Political Process for Local and Regional Authorities at the 9th World Water Forum in Senegal.

This Call for Action has been agreed upon in Brasilia on 21 March 2018.



Brasilia Local and Regional Governments Call for Action on Water and Sanitation

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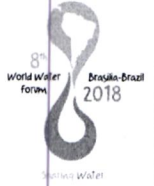
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