

THE RIGHT TO WATER – FROM PAPER TO PRACTICE

*Leanne Watrous**

Special thanks to my loving and supportive parents, without whom none of this would be possible.

INTRODUCTION

Water is essential for life. Without it, a person can only live for three to five days.¹ The same person could survive without food for about eight weeks.² The United Nations has determined there is a human right to food,³ but no explicit, legally binding right to water has been established.⁴

Since water is essential for life, and thus water is a prerequisite for all other human rights, there should be an explicit, legally binding right to water for all people.⁵ The United Nations recognizes that “water supply and sanitation services, as well as water as a resource, are critical to sustainable development.”⁶ Access to potable water can help reduce prevalent deadly diseases throughout the world, such as malaria, cholera, dysentery, infectious hepatitis and diarrhea.⁷ Millions of people die yearly from diseases caused by a lack of safe drinking

* J.D. Candidate, Regent University School of Law, 2012; B.A., University of Virginia, 2009.

¹ Charles W. Bryant, *How Long Can You Go Without Food and Water?*, HOWSTUFFWORKS.COM (Feb. 11, 2008), <http://health.howstuffworks.com/diseases-conditions/death-dying/live-without-food-and-water.htm>.

² *Id.*

³ G.A. Res. 64/159, U.N. Doc. A/RES/64/159 (Mar. 10, 2010) [hereinafter Right to Food].

⁴ OFFICE OF THE U.N. HIGH COMM’R FOR HUMAN RIGHTS, HUMAN RIGHTS FACT SHEETS FACT SHEET NO. 35: THE RIGHT TO WATER 3 (Aug. 2010).

⁵ Gregory Hartl, *Water for Health Enshrined as a Human Right*, WORLD HEALTH ORGANIZATION (Nov. 27, 2002), <http://www.who.int/mediacentre/news/releases/pr91>.

⁶ *Background*, U.N.: INTERNATIONAL DECADE FOR ACTION WATER FOR LIFE 2010-2015, <http://www.un.org/waterforlifedecade/background.html> (last visited Dec. 19, 2010).

⁷ Hartl, *supra* note 5.

water.⁸ “Every year, more people die from unsafe water than from all forms of violence, including war.”⁹ Astoundingly, approximately 700 million people around the world do not have access to sufficient water.¹⁰

There appears to be a general consensus that a right to water exists, even though it has not been explicitly established.¹¹ The vast majority of States in the world understand the importance of a right to water.¹² The right to water is stated in many United Nations agreements and flows from provisions in other United Nations agreements.¹³ There are

⁸ *Background*, *supra* note 6.

⁹ *Water Quality*, U.N.: INTERNATIONAL DECADE FOR ACTION WATER FOR LIFE 2010-2015, <http://www.un.org/waterforlifedecade/quality.html> (last visited Dec. 19, 2010).

¹⁰ *Water Scarcity*, U.N.: INTERNATIONAL DECADE FOR ACTION WATER FOR LIFE 2010-2015, <http://www.un.org/waterforlifedecade/scarcity.html> (last visited Dec. 19, 2010).

¹¹ See Lila Barrera-Hernandez, *Indigenous Peoples, Human Rights and Natural Resource Development: Chile's Mapuche Peoples and the Right to Water*, 11 ANN. SURV. INT'L & COMP. L. 1 (2005); Amy Hardberger, *Life, Liberty, and the Pursuit of Water: Evaluating Water as a Human Right and the Duties and Obligations it Creates*, 4 NW. U. J. INT'L HUM. RTS. 331 (2005); David Hunter, *New Challenges in an Era of Global Water Scarcity*, 5 SUSTAINABLE DEV. L. & POL'Y 2 (2005); Ramin Pejan, *The Right to Water: The Road to Justiciability*, 36 GEO. WASH. INT'L L. REV. 1181 (2004); Anna R. Welch, *Obligations of State and Non-State Actors Regarding the Human Right to Water Under the South African Constitution*, 5 SUSTAINABLE DEV. L. & POL'Y 58 (2005).

¹² HENRI SMETS, *THE RIGHT TO WATER IN NATIONAL LEGISLATIONS* 27 (2006), available at http://www.worldwatercouncil.org/fileadmin/www/Programs/Right_to_Water/Pdf_doct/Smets_RTW_in_national_legislations.pdf.

¹³ See *Right to Food*, *supra* note 3; Comm. on Econ. Soc. & Cultural Rights, *Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights: General Comment No. 15*, U.N. Doc. E/C.12/2002/11 (Jan. 20, 2003) [hereinafter *Comment 15*]; G.A. Res. 57/44 art. 16, U.N. Doc. A/RES/57/44 (Jan. 17, 2003); U.N. Secretary-General, *Report of the World Conference on Human Rights: Rep. of the Secretary-General*, U.N. Doc. A/CONF.157/24 (Part I) (Oct. 13, 1993); Convention on the Rights of the Child, *adopted* Nov. 20, 1989, 1577 U.N.T.S. 3 [hereinafter *CRC*]; Convention on the Elimination of All Forms of Discrimination Against Women, *adopted* Dec. 18, 1979, 1249 U.N.T.S. 14; International Armed Conflicts (Protocol I), *adopted* June 8, 1977, 1125 U.N.T.S. 3 [hereinafter *Protocol I*]; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), *adopted* June 8, 1977, 1125 U.N.T.S. 609 [hereinafter *Protocol II*]; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter *ICESCR*]; Geneva Convention Relative to the Treatment of Prisoners of War, *adopted* Aug. 12, 1949, 75 U.N.T.S. 135 [hereinafter *Geneva Convention*].

also regional agreements creating a right to water,¹⁴ as well as a right to water in the laws of a few States.¹⁵ The concept of a right to water is not a new one, “[a]ccording to the Food and Agricultural Organization, more than 3,600 treaties related to international water resources have been drawn up since 805 AD.”¹⁶

While there is not an explicit universal right to water, the general acceptance of the necessity of water to other established human rights creates an unofficial right to water. This article will examine international and regional agreements addressing a right to water as well as the policies of individual States that incorporate the right to water within their national laws.

After reviewing the right to water as it appears in international treaties, regional agreements, and States’ laws, this article will examine where the right to water breaks down before it reaches individuals. It will look at where that breakdown occurs and how governmental and corporate actions affect the process. The article will then propose a solution to the breakdown of the right to water using the Social Contract theory as described by Jean-Jacques Rousseau and using principles from John Locke’s *Two Treatises of Government*.¹⁷ The Social Contract theory will be viewed through the lenses of State governments, corporations, and individuals. Finally, the article will look at how applying Christian principles to corporations and individuals can help the right to water be realized by all people.

¹⁴ League of Arab States Arab Charter on Human Rights, May 22, 2004, 12 INT’L HUM. RTS. REP. 893 (entered into force Mar. 15, 2008) [hereinafter Arab Charter]; 1st Asia-Pacific Water Summit Message from Beppu, Dec. 3-4, 2007; Council of Europe Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe, *adopted* Dec. 1, 2004; African Convention on the Conservation of Nature and Natural Resources, *adopted* July 11, 2003; Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, July 11, 2003; African Charter on the Rights and Welfare of the Child, 1990, OAU Doc. CAB/LEG/24.9/49 (entered into force Nov. 29, 1999).

¹⁵ Bolivia, Cambodia, Colombia, India, Eritrea, Ethiopia, Gambia, South Africa, and Uganda. *See infra* Part I.C..

¹⁶ *Transboundary Waters*, U.N.: INTERNATIONAL DECADE FOR ACTION WATER FOR LIFE 2010-2015, http://www.un.org/waterforlifedecade/transboundary_waters.html (last visited Dec. 19, 2010).

¹⁷ JEAN-JACQUES ROUSSEAU, *THE SOCIAL CONTRACT* (Ernest Rhys ed., G.D.H. Cole. trans., E.P. Dutton & Co 3d prtg. 1920), *available at* http://books.google.com/books?id=exNPAAAAMAAJ&printsec=frontcover&dq=intitle:The+intitle:Social+intitle:Contract&hl=en&ei=UQx6Tu2bMafZ0QHvyYWIag&sa=X&oi=book_result&ct=result&resnum=3&ved=0CD0Q6AEwAg#v=onepage&q&f=false; JOHN LOCKE, *LOCKE’S TWO TREATISES OF GOVERNMENT* (Cambridge Univ. Press 2d prtg. 1963).

By combining principles from Rousseau's Social Contract and Locke's ideas on property, with Christian principles for businesses and individuals, the right to water can become universal. Using these concepts, a better compromise can be obtained between the interests of governments and corporations and the needs of individuals, thereby leading to a global implementation of the human right to water.

I. THE RIGHT TO WATER

A. *At the International Level*

Internationally, there are many agreements that explicitly include or generally indicate the existence of a human right to water.¹⁸

1. The Geneva Convention

The Geneva Convention established and codified the basic rights that all people should have during times of war.¹⁹ The rights contained within the Geneva Convention were meant to provide the very basic rights that should be respected in all people, even a State's enemies. Article 26 of the Geneva Convention explicitly provides that water must be provided for prisoners of war.²⁰

The right to water also appears in Articles 13, 20, 22, 25, 29, and 46 of the Geneva Convention.²¹ Article 13 refers to the treatment of prisoners of war and prohibits "[a]ny unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody."²² The omission of water would seriously endanger the health of a prisoner, and after five days would cause death.²³ In order to prevent death, prisoners have a right to water under the Geneva Convention.

Article 20 of the Geneva Convention explicitly requires that prisoners of war be provided with "sufficient food and potable water" while being evacuated from a combat zone.²⁴ Article 46 provides a similar right to water while being transferred between non-combat

¹⁸ See generally *supra* note 13.

¹⁹ Geneva Convention, *supra* note 13, art. 1-3.

²⁰ *Id.* art. 26 ("Sufficient drinking water shall be supplied to prisoners of war.").

²¹ *Id.* art. 13, 20, 22, 25, 29, 46.

²² *Id.* art. 13.

²³ Bryant, *supra* note 1.

²⁴ Geneva Convention, *supra* note 13, art. 20.

zones.²⁵ Additionally, Article 46 provides that the rationale behind the right to food and water for prisoners is “to keep them in good health.”²⁶

Articles 22, 25, and 29 address the living conditions and facilities where prisoners of war are detained.²⁷ Article 22 requires that prisoners of war be detained in areas “affording every guarantee of hygiene and healthfulness.”²⁸ Since millions of people die yearly from a lack of clean water, water is required for healthfulness.²⁹ Article 25 also requires that the facilities where prisoners of war are contained be “as favourable as those for the forces of the Detaining Power who are billeted in the same area.”³⁰ States universally provide water for their own troops, therefore Article 25 requires water for prisoners of war.

Articles 25 and 29 both protect the health of prisoners while detained.³¹ Article 25 requires that facilities “shall in no case be prejudicial” to the health of prisoners.³² Article 29 also requires that prisoners of war be given “all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics.”³³ Additionally, Article 29 requires baths and showers be available to prisoners as well as “sufficient water and soap for their personal toilet and for washing their personal laundry.”³⁴ If prisoners of war are to be afforded enough water to bathe and shower, it follows that non-combatants also be allowed access to drinking water in order to survive.

The right to water also appears in the 1977 Protocols to the Geneva Convention in Articles 54 and 69 of Protocol I (The Protocol Additional to the Geneva Convention of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts)³⁵ and Articles 5 and 14 of Protocol II (The Protocol Additional to the Geneva Convention of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts).³⁶

²⁵ *Id.* art. 46.

²⁶ *Id.*

²⁷ *Id.* art. 22, 25, 29.

²⁸ *Id.* art. 22.

²⁹ *Background, supra* note 6.

³⁰ Geneva Convention, *supra* note 13, art. 25.

³¹ *Id.* art. 25, 29.

³² *Id.*

³³ *Id.* art. 29.

³⁴ *Id.*

³⁵ Protocol I, *supra* note 13, art. 54, 69.

³⁶ Protocol II, *supra* note 13, art. 5, 14.

Articles 54 and 69 of Protocol I provide and protect water for civilians during war.³⁷ Article 54 begins by stating that “[s]tarvation of civilians as a method of warfare is prohibited.”³⁸ The logic behind such a prohibition is likely that civilians are not actively fighting in the war effort and have not voluntarily put themselves in harm’s way. Therefore, civilians are not supposed to be the object of attacks during war. Depriving civilians of the right to water would be an attack resulting in more immediate harm than starvation. Therefore, it is reasonable to infer that Article 54 prohibits the deprivation of the right to water, as well as starvation, as means of warfare against civilians.³⁹ Additionally, Article 54 prohibits the attack, destruction, removal of, or rendering useless “objects indispensable to the survival of the civilian population, such as food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, [and] drinking water installations.”⁴⁰ Article 14 of Protocol II reinforces these protections for the civilian population.⁴¹

Article 69 of Protocol I requires that occupying powers during times of war “ensure the provision of clothing, bedding, means of shelter, [and] other supplies essential to the survival of the civilian population of the occupied territory.”⁴² Water is essential to the survival of any population, and while it may normally be defined as a resource rather than a “supply,” it is likely that the signatories to Protocol I intended “supplies” to mean all things essential to the survival of the civilian population.

Article 5 of Protocol II provides that, as a minimum, people who have been “deprived of their liberty for reasons related to the armed conflict . . . shall . . . be provided with food and drinking water and be afforded safeguards as regards health and hygiene.”⁴³ This is a minimum standard during difficult times. Certainly people should also have this same minimum standard of a right to water during non-war times.

For the rights given in the Geneva Convention and Protocols I and II to be protected and carried out there must be a general human right to water. If the right to water is considered one of the very basic rights given to a State’s enemies in times of war, then it should also be

³⁷ Protocol I, *supra* note 13, art. 54, 69.

³⁸ *Id.* art. 54.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Protocol II, *supra* note 13, art. 14.

⁴² Protocol I, *supra* note 13, art. 69.

⁴³ Protocol II, *supra* note 13, art. 5.

considered a right of all people at all times. If the Geneva Convention provides the right to and protection of the right to water during the difficult and unusual time of armed conflict, then the right to water should be afforded to all people at all times.

2. International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights provides that people may not be deprived of their “own means of subsistence.”⁴⁴ Additionally, Article 11 “recognize[s] the right of everyone to an adequate standard of living for himself and his family, including adequate food.”⁴⁵ In order to maintain even the most basic standard of living, one must have access to water. Article 11 also provides that States should “take appropriate steps to ensure the realization of this right.”⁴⁶ Since water is essential for life, it must be included in any definition of an adequate standard of living. Therefore, even though the right to water is not mentioned explicitly, all States that signed the International Covenant on Economic, Social and Cultural Rights have implicitly agreed to take appropriate steps to ensure the right to water for their citizens.

3. Convention on the Elimination of All Forms of Discrimination Against Women

The United Nations Convention on the Elimination of All Forms of Discrimination Against Women was adopted because of concerns that women in poverty “have the least access to food, health, education, training and opportunities for employment and other needs.”⁴⁷ Article 12 of the Convention provides that women should not be discriminated against with regards to health care, and that they should be provided additional services as necessary in connection with pregnancy.⁴⁸ Article 14 requires that States “take all appropriate measures to eliminate discrimination against women in rural areas . . . [and] in particular . . . ensure to such women the right . . . [t]o enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply.”⁴⁹ While this United Nations

⁴⁴ ICESCR, *supra* note 13, art. 1(2).

⁴⁵ *Id.* art. 11.

⁴⁶ *Id.*

⁴⁷ Convention on the Elimination of All Forms of Discrimination Against Women, *supra* note 13, at 15.

⁴⁸ *Id.* art. 12.

⁴⁹ *Id.* art. 14.

Convention is focused on preventing discrimination against women, it requires a right to water as part of its minimum standard.

4. Convention on the Rights of the Child

The United Nations Convention on the Rights of the Child provides a right to water for children.⁵⁰ Article 24 recognizes “the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.”⁵¹ Potable water is needed for children to have the “highest attainable standard of health.”⁵² Additionally, States are required to take appropriate measures “[t]o combat disease and malnutrition, including . . . the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.”⁵³ Under Article 27 children have the right “to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.”⁵⁴ This standard of living is to be provided by parents or the State if the parents are not adequately fulfilling their responsibility.⁵⁵

Even though States are required to provide adequate potable drinking water to children under the Convention on the Rights of the Child, approximately 3,900 children die daily from dirty water or poor hygiene.⁵⁶ While there is a right to water for children, it is obviously not being upheld for these children. Something more must be done.

5. The Right to Food

There is a right to food recognized by the United Nations in several documents, including a General Assembly Resolution.⁵⁷ Article 33 of this Resolution provides the right to water for people as needed to grow food.⁵⁸ The Resolution also provides that there should not be discrimination against women, or people in rural areas, as compared with men or those living in urban areas in the right to food,

⁵⁰ CRC, *supra* note 13.

⁵¹ *Id.* art. 24(1).

⁵² *Id.*

⁵³ *Id.* art. 24(2)(c).

⁵⁴ *Id.* art. 27(1).

⁵⁵ *Id.* art. 27(3).

⁵⁶ *Background*, *supra* note 6.

⁵⁷ Right to Food, *supra* note 3.

⁵⁸ *Id.* art. 33.

and the water necessary for the realization of that right.⁵⁹ While this does not provide a right to water for everyone, it at least provides a right to water equal to what others within that area have in conjunction with the right to food.

6. General Comment No.15

By far the best argument for the existence of the right to water, acknowledged internationally, is in General Comment No. 15 (Comment 15) on the right to water from the Committee on Economic, Social and Cultural Rights.⁶⁰ Comment 15 suggests that the right to water become recognized as an actual human right.⁶¹ Comment 15 defines, sets forth specifications, and includes recommendations for implementing the right to water.⁶² According to the Committee on Economic, Social and Cultural Rights, the right to water “entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.”⁶³ While Comment 15 recognizes the right to water for a multitude of uses, the top priority is water for personal and domestic uses.⁶⁴

In addition to recognizing the right to water, Comment 15 stresses the need for sanitary water and the sustainability of water.⁶⁵ The Committee on Economic, Social and Cultural Rights puts the responsibility of protecting a States’ water sources on the State itself.⁶⁶ Comment 15 suggests that the State “ensure that natural water resources are protected from contamination by harmful substances and pathogenic microbes.”⁶⁷ Comment 15 also suggests that the right to water requires that water be available, sanitary, and both physically and economically accessible.⁶⁸ Additionally, Comment 15 posits that States should have the responsibility to respect, protect, and fulfill the right to water for their population.⁶⁹ According to Comment 15, States should do more than passively protect the right to water. They are required to have a plan and strategy in place that addresses having

⁵⁹ *Id.* art. 5, 10.

⁶⁰ *Comment 15, supra* note 13.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.* art. 2.

⁶⁴ *Id.*

⁶⁵ *Id.* art. 8, 11, 12, 20, 21, 23-26, 28.

⁶⁶ *Comment 15, supra* note 13.

⁶⁷ *Id.* art. 8.

⁶⁸ *Id.* art. 12.

⁶⁹ *Id.* art. 20.

“sufficient and safe water for present and future generations.”⁷⁰ Article 45 makes a sweeping statement that would impose “a duty on each State party to take whatever steps are necessary to ensure that everyone enjoys the right to water, as soon as possible.”⁷¹

While there are no international agreements explicitly providing a general right to water for everyone, the provisions in the Geneva Convention and its accompanying Protocols; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Discrimination Against Women; the Conventions on the Rights of the Child; the General Assembly Resolution on the Right to Food; and the suggestions in Comment 15 show that the right to water is needed for the realization of other rights, and is generally accepted as a right by itself within the international community.

B. At the Regional Level

In addition to the international agreements that reference, suggest, and recommend a right to water, there are numerous regional agreements that do the same.⁷² Regional agreements that relate to water are more aggressive in establishing a right to water and setting forth ways to protect that right. This is most likely because regional agreements can better address specific water problems faced by States in a particular environment.

Three agreements that African States have entered into provide for the right to clean water explicitly for children⁷³ and women,⁷⁴ and require a detailed plan for the role of States in providing potable water and protecting the natural resource.⁷⁵ The Arab States, another group of States dealing with a difficult and dry climate, have also entered into an agreement protecting the right to water.⁷⁶ The Arab Charter on Human Rights, within the League of Arab States, protects the right to

⁷⁰ *Id.* art. 28.

⁷¹ *Id.* art. 45.

⁷² *See supra* note 14.

⁷³ African Charter on the Rights and Welfare of the Child, *supra* note 14, art. 14.

⁷⁴ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, *supra* note 14, art. 15.

⁷⁵ African Convention on the Conservation of Nature and Natural Resources, *supra* note 14, art. 7 (Article 7 provides that States must manage water so as to keep the highest amount available, while simultaneously ensuring the stored water is sanitary and not wasted. States are also required to have a plan in place in order to make the best use of the water available).

⁷⁶ Arab Charter, *supra* note 14, art. 39.

water in order to ensure the people's right to the "highest attainable standard of physical and mental health."⁷⁷ While the Arab Charter does not provide protection for water for other uses, or require a plan for sustainability of water, it does provide the most basic and necessary right to water for the survival of the population of the Arab States.

Leaders from the Asia-Pacific region also entered into an agreement concerning water.⁷⁸ This agreement goes beyond simply recognizing a right to water and recognizes "the people's right to safe drinking water and basic sanitation as a **basic human right** and a fundamental aspect of human security."⁷⁹ A basic human right is one that every person has the right to for the simple reason of existing. Asia-Pacific States face a different problem when it comes to the right to water than many other States in that they often have too much water due to flooding and other water-related disasters, rather than too little water.⁸⁰ Their agreement addresses this unique aspect of the climate and generally agrees to take action to help fight against the difficulties caused by nature in regard to too much water.⁸¹

Even though these regional agreements may not be legally binding, they show a willingness on the part of the signatory States to take steps beyond international agreements toward creating and protecting a right to water.⁸²

C. At the State Level

Despite the fact that numerous States have signed international agreements that could be interpreted to create a right to water, most States have not included the right to water, or policies protecting or promoting the right to water, in their own national laws. However, a few States have included the right to water and are actively working toward all citizens having access to potable water.⁸³

⁷⁷ *Id.*

⁷⁸ 1st Asia-Pacific Water Summit Message from Beppu, *supra* note 14.

⁷⁹ *Id.* at 1 (emphasis added).

⁸⁰ *See generally Id.*

⁸¹ *Id.*

⁸² OFFICE OF THE UNITED NATIONS HIGH COMM'R FOR HUMAN RIGHTS, *supra* note 4, at 4.

⁸³ Bolivia, Cambodia, Colombia, India, Eritrea, Ethiopia, Gambia, South Africa, and Uganda. *See infra* Part I.C..

India has included the right to water in its Constitution, and has developed a national water policy.⁸⁴ In India's Constitution, local authorities are required to have a plan in place that addresses the sharing of water and other natural resources before development of an area can occur.⁸⁵ Additionally, the government may give the states or local governments the authority to put into effect necessary procedures to provide potable water as well as water for domestic, industrial, and commercial purposes.⁸⁶ India's National Water Policy begins by recognizing that "[w]ater is a prime natural resource, a basic human need and a precious national asset."⁸⁷ The policy is a detailed one addressing many aspects of the right to and the need for water.⁸⁸ The policy sets forth the water use priorities in the following order, from most to least important: "drinking water, irrigation, hydro-power, ecology, agro-industries and non-agricultural industries, navigation and other uses."⁸⁹

South Africa lists the right to access sufficient water in its Constitution, as part of its Bill of Rights.⁹⁰ In order to monitor this right, the South African Human Rights Commission is required to look over the measures the State has taken towards the realization of the right to water.⁹¹ In addition to the right to water in the South African Constitution, a white paper on "Water Supply and Sanitation Policy" was written and released by the South African Minister of Water Affairs and Forestry in November of 1994.⁹² The white paper sets out the department's plan for a water supply and sanitation policy and encourages the public to take part in attempts to provide everyone with access to potable water.⁹³ The Policy Principles in the "Water Supply

⁸⁴ INDIA CONST., modified in 2007; Government of India Ministry of Water Resources, National Water Policy (Apr. 2002).

⁸⁵ INDIA CONST., *supra* note 84, art. 243ZD(3)(a)(i), 243ZE(3)(a)(ii).

⁸⁶ *Id.* art. 243G(b), 243W(a)(ii).

⁸⁷ Government of India Ministry of Water Resources, *supra* note 84, art. 1.

⁸⁸ Specifically the need for a water policy, water allocation priorities, ground water development instructions, drinking water, irrigation, population growth and movement, financial and physical sustainability and conservation of water, management of water resources, private sector involvement, water quality, flood control and management, drought management, and science and technology related to water. Government of India Ministry of Water Resources, *supra* note 84.

⁸⁹ *Id.* art. 5.

⁹⁰ CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA NO.108 Dec. 28, of 1996, art. 27.

⁹¹ *Id.* art. 184.

⁹² Government of South Africa Department of Water Affairs and Forestry, Water Supply and Sanitation Policy, Nov. 1994.

⁹³ *Id.*

and Sanitation Policy” define basic water services as a human right, consistent with the South African Bill of Rights.⁹⁴ However, in the same Policy Principles is the idea that “the user pays.”⁹⁵ These two principles seem to contradict each other since there are undoubtedly people in South Africa who will not be able to pay for water. If access to water is a human right, as the South African Bill of Rights claims, it should be available to everyone, regardless of their ability to pay. The white paper sets out the roles of the national and local governments, the private sector, and non-governmental organizations.⁹⁶ The role of the central government is defined as “[m]anaging the nation’s water resources in the public interest and[] ensuring that all citizens have access to adequate water and sanitation services.”⁹⁷ The paper sets out what is meant by basic water supply in quantity, availability, and quality.⁹⁸

The Bolivian Constitution provides that everyone has the right to potable water, and that the right is universal.⁹⁹ Additionally, access to the water system is viewed as a human right that is “not the object of concession or privatization.”¹⁰⁰ The Cochabamba Declaration also comes from Bolivia and recognizes that water is a natural resource, provided for use by everyone, and not belonging to any one person in particular.¹⁰¹ It declares “the world’s water must be conserved, reclaimed and protected for all future generations.”¹⁰²

Uganda, Cambodia, Colombia, Eritrea, Ethiopia, and Gambia all also discuss the right to water in their Constitutions.¹⁰³ In Uganda, the government has the responsibility to protect natural resources, including water, in addition to ensuring that “all Ugandans enjoy rights and opportunities and access to . . . clean and safe water.”¹⁰⁴ The Ugandan Constitution further protects water through safeguarding the environment, promoting sustainable development, and public awareness.¹⁰⁵

⁹⁴ *Id.* at 8.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.* at 9.

⁹⁸ *Id.* at 15.

⁹⁹ ASAMBLEA CONSTITUYENTE DE BOLIVIA NUEVA CONSTITUCIÓN [Constitution] Oct. 2008, art. 16, 20.

¹⁰⁰ *Id.* art. 20.

¹⁰¹ COCHABAMBA DECLARATION, Dec. 8, 2000 (Bol.).

¹⁰² *Id.*

¹⁰³ *See infra* pp. 122-23.

¹⁰⁴ CONSTITUTION OF THE REPUBLIC OF UGANDA 1995, art. XII, XIV.

¹⁰⁵ *Id.* art. XXVII.

The Colombian Constitution puts “[t]he general welfare and improvement of the population quality of life” within the role of the government.¹⁰⁶ As part of that responsibility, the government is supposed to address the needs of its citizens for potable water.¹⁰⁷ The Constitution adds additional influence to this responsibility by stating that “[f]or this purpose, public social expenditures will have priority over any other allocation in the plans and budgets of the nation and of the territorial entities.”¹⁰⁸

The Cambodian Constitution requires the Cambodian government to protect the environment and form a management plan for natural resources, including water.¹⁰⁹ Ethiopia’s Constitution entitles its citizens to have clean water only “within the limits of the country’s resources.”¹¹⁰ In Gambia, the Constitution states that the State is only required to facilitate equal access to water for its citizens.¹¹¹ In Eritrea, the Constitution requires the State to regulate the water in a way that is balanced and sustainable in the present and for the future.¹¹²

Although the explicit right to water has been left out of the laws of most States, a few States have taken measures to include and protect that right for their citizens. Considering all the international agreements which generally acknowledge a right to water, the regional agreements protecting the right to water, and the few State laws providing a right to water, there appears to be an overwhelming consensus of the existence of the right to water.

II. THE BREAKDOWN IN THE RIGHT TO WATER

With numerous international and regional agreements that explicitly or implicitly create a right to water, the right should be recognized and realized by all people throughout the world. Unfortunately, the facts do not show this to be the case. With millions of people dying every year due to a lack of access to potable water, there is an obvious breakdown in the right to water between state-level agreements and individuals.¹¹³ In order to fix the breakdown, it is important to know at what point the breakdown occurs.

¹⁰⁶ POLITICAL CONSTITUTION OF COLOMBIA July 4, 1991, art. 366.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ CONSTITUTION OF CAMBODIA Sept. 21, 1993, art. 59.

¹¹⁰ CONSTITUTION OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA Dec. 8, 1994, art. 90(1).

¹¹¹ CONSTITUTION OF THE REPUBLIC OF THE GAMBIA 1997, art. 216(4).

¹¹² THE CONSTITUTION OF ERITREA May 23, 1997, art. 10 §3.

¹¹³ *Background, supra* note 6.

For some States, finding the point of breakdown is easy. When States have signed international agreements, and possibly regional agreements, protecting or promoting the right to water, but do not incorporate that right into their laws, there is less incentive to provide that right throughout the country. For these States, the first step is to include the right to water in their national laws and then implement a plan to protect the right. The hesitation of States to incorporate the right to water into their laws may be understandable when they look at other States that have incorporated the right and have spent time, energy, and money trying to make the right a reality, yet still have many people dying from a lack of access to potable water. Once States that have included the right to water within their laws begin to show improvement in the percentage of their citizens with access to potable water, other States may follow their example and incorporate the right to water in their own laws.

For the States that have incorporated the right to water into their national laws, we must look deeper to discover where that right falls apart. As part of their duty to protect the right to water, States must “prevent third parties from interfering in any way with the enjoyment of the right to water.”¹¹⁴ Many States that have incorporated the right into their laws have tried using privatization of water to ensure the right to water for all citizens. The issue of privatizing water is a highly debated and political one, but as a whole it does not appear to provide the right to water to all people.¹¹⁵

Often when large corporations enter an area or water is privatized, it disrupts the natural flow of water within a community.¹¹⁶ Disruptions in the flow of water can alter a community's access to water and results in community members either drinking unclean water or having to pay for a resource they used to be able to access freely.¹¹⁷ Water privatization and economic development through new corporations are not bad things by themselves. In fact, they can do a lot of good for a community in terms of economic stimulation and providing access to better water than was previously available. However, they can also produce negative and deadly results within a community if proper regulatory protections are not in place.

¹¹⁴ *Comment 15, supra* note 13, art. 23.

¹¹⁵ FLOW: FOR LOVE OF WATER – HOW DO A HANDFUL OF CORPORATIONS STEAL OUR WATER? (Oscilloscope Labs. 2008) [hereinafter FLOW: FOR LOVE OF WATER].

¹¹⁶ *See generally Id.*

¹¹⁷ *Id.*

India is a State that has created a right to water in its Constitution and has developed a national water policy.¹¹⁸ Unfortunately, when multi-national corporations came in and started having an impact on water, villages went from being self-sufficient to needing government assistance to ensure access to potable water.¹¹⁹ A similar need for government assistance occurs in South Africa, where water costs money and many people do not have extra money to buy water.¹²⁰

In Senegal, there is “less water available and it is of worse quality than before” they privatized their water system.¹²¹ Since water privatization has the potential to improve water quality and access, but has been poorly implemented resulting in reduced access to potable water for many people, Comment 15 from the United Nations does not address water privatization in discussing the right to water.¹²²

In Bolivia, which has also established the right to water in its Constitution and the Cochabamba Declaration,¹²³ approximately 10% of children die before their fifth birthday due to a lack of potable water.¹²⁴ Unsafe water in Bolivia is a result of a lack of sewage systems resulting in sewage entering rivers and lakes, slaughter houses dumping blood into rivers, and water privatization requiring people with limited money to purchase the only potable water available.¹²⁵

III. SOCIAL CONTRACT THEORY APPLIED TO THE RIGHT TO WATER

In order for the right to water to be realized by all people there must be a compromise between the interests of the State, corporations, and individuals. Rousseau and Locke wrote about the concept of the social contract.¹²⁶ If principles similar to those discussed by Rousseau and Locke are applied to the right to water today, more people will actually have access to potable water.

¹¹⁸ INDIA CONST., *supra* note 84; MODIFIED IN 2007; GOVERNMENT OF INDIA MINISTRY OF WATER RESOURCES, *supra* note 84.

¹¹⁹ FLOW: FOR LOVE OF WATER, *supra* note 115.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² Gustavo Capdevila, *UN Consecrates Water as a Public Good, Human Right*, IPSNEWS.NET (Nov. 28, 2002), <http://www.ips.org/africa/2002/11/rights-un-consecrates-water-as-public-commodity-and-human-right/>.

¹²³ ASAMBLEA CONSTITUYENTE DE BOLIVIA NUEVA CONSTITUCIÓN [Constitution] Oct. 2008, art. 16, 20 (Bol.); COCHABAMBA DECLARATION, *supra* note 101.

¹²⁴ *FLOW: About Water*, <http://www.flowthefilm.com/aboutwater> (last visited Dec. 23, 2010).

¹²⁵ FLOW: FOR LOVE OF WATER, *supra* note 115.

¹²⁶ ROUSSEAU, *supra* note 17; LOCKE, *supra* note 17.

Under Rousseau's *The Social Contract*, people give up a certain amount of their rights and freedom to the government for better protection and maintenance of those rights for the common good.¹²⁷ By doing this, everyone has an equal right and interest in things maintained by the State, and it reduces the chances of any one individual taking or using more than they should.¹²⁸ Rousseau stated that "[e]very man has naturally a right to everything he needs . . . [h]aving his share, he ought to keep to it, and can have no further right against the community."¹²⁹ Rousseau further develops this point by stating that when land is initially inhabited, no one should take more than he needs.¹³⁰ According to Rousseau, a society's right to property is superior to the individual's right.¹³¹ While Rousseau does not consider it to be a requirement, he suggests that to have a successful social contract "[e]very service a citizen can render the State he ought to render as soon as the Sovereign demands it."¹³² Rousseau's general approach to the concept of the social contract is that it "sets up among the citizens an equality of such a kind, that they all bind themselves to observe the same conditions and should therefore all enjoy the same rights."¹³³

Locke wrote that, under the Law of Nature, no one should harm another's life, health, liberty, or possessions.¹³⁴ In his *Second Treatise of Government*, Locke discusses property and mentions water.¹³⁵ Locke establishes that people have a right to water, either through the fact that the Earth was given to all people by God, or because it is required for preservation.¹³⁶ Using a Biblical foundation, Locke argues that all natural resources are given to people in common, yet he recognizes that reality requires resources to be appropriated to individuals.¹³⁷ The general rule Locke suggests to solve this problem is that a person gains ownership over an item when they put work into obtaining or bettering the item.¹³⁸ Locke explicitly states, treating it as

¹²⁷ ROUSSEAU, *supra* note 17, at 14.

¹²⁸ *Id.* at 15.

¹²⁹ *Id.* at 20.

¹³⁰ *Id.*

¹³¹ *Id.* at 21.

¹³² *Id.* at 27.

¹³³ *Id.* at 28.

¹³⁴ LOCKE, *supra* note 17, at 289.

¹³⁵ *Id.* at 303-20.

¹³⁶ *Id.* at 303-04.

¹³⁷ *Id.* at 304-05.

¹³⁸ *Id.* at 305-07 (For example, by picking an apple from a tree, a person has added their work to the apple and would now have ownership [subject to limitations later discussed].).

an obvious principle, that water belongs to everyone (until it is drawn from the well or stream by an individual).¹³⁹ Locke went so far as to say that a person who wasted a resource by letting it spoil should be punished for taking it from others who might have obtained and benefited from the resource.¹⁴⁰

Locke then adds a limitation and a modification to the general rule of property ownership with the addition of work. The limitation is that a person can only acquire as much of a resource as they can enjoy and use before it spoils.¹⁴¹ Taking anything beyond what a person can use is considered stealing from other people in the community.¹⁴² Modification of the general rule was required with the invention of money.¹⁴³ Since money is used to trade for goods that will spoil, Locke did not consider it to be wasteful for a person to obtain possession of more of a resource than they could personally use before it spoils, as long as it was sold or traded before spoiling.¹⁴⁴ This does not make Locke's original argument invalid or unhelpful to the situation in regards to the right to water. While money can prevent resources from spoiling, water does not spoil in the same sense that other natural resources might, and as stated above, Locke believed that everyone had the right to access water.¹⁴⁵

One of Locke's assumptions for his arguments was that there were plenty of the necessary natural resources for everyone to use and obtain.¹⁴⁶ While this may be changing with many natural resources today, especially water, States and their citizens can still benefit from applying the principles Locke discusses to the right to water.

If States were to approach the right to water by using the principles laid out by Rousseau and Locke, more people would have access to potable water. Since States have agreed through international treaties and regional agreements to the right to water, and many claim that water within a country belongs to the government, they have put themselves in a position where the individual has surrendered their personal right in regards to water to the government. Applying Rousseau's thinking, this means that the State has a responsibility to protect and maintain the right to water, ideally in a better way than

¹³⁹ *Id.* at 307.

¹⁴⁰ *Id.* at 312-13.

¹⁴¹ *Id.* at 308.

¹⁴² *Id.*

¹⁴³ *Id.* at 312-13.

¹⁴⁴ *Id.*

¹⁴⁵ LOCKE, *supra* note 17.

¹⁴⁶ *Id.* at 309.

each individual could, but still provide their individual citizens with the water they need to survive.

Both Rousseau and Locke promoted the idea that a person should only take what resources he needs. This is one of the most important concepts that should be applied to the right to water. When water is scarce and many people do not have any access to potable water, States have a responsibility to put in place laws and procedures to ensure that safe drinking water for everyone has priority over water used for other purposes. While water used by corporations is often important, and those corporations add significant value to a community, drinking water needs to be the priority everywhere, as recognized by India's Water Policy.¹⁴⁷ Additionally, in order to ensure the right to basic potable water, States should consider creating a monetary penalty for corporations, or possibly even households, that consistently waste water during times of drought, following Locke's suggestion.¹⁴⁸ The funds provided by a monetary penalty could then be used to provide drinking water to the members of society who do not have access to potable water.

A similar penalty should be enforced on corporations that contaminate the water supply. In many situations, corporations come into small communities and either deplete the water source (thus taking more than their fair share and harming individuals), or pollute the water.¹⁴⁹ This leaves individuals, who have done nothing wrong, in a situation where they do not have the free access to potable water they once had.¹⁵⁰ If States were to create policies that prohibited corporations from polluting or using too much water, and had an enforcement mechanism that helped mend those situations, those actions on the part of the State would help fulfill the State's responsibility as the protector of the rights given to them by their citizens.

While corporations put work into obtaining water and therefore, under Locke's principles, have ownership over it, they should not be allowed to be wasteful or cause it to spoil. Additionally, applying Rousseau's ideas, everyone under a government has bound themselves to the same conditions in giving the State the right to control water, and therefore they should all enjoy the same rights. A large or rich corporation should not have priority over any individual's access to safe drinking water for basic survival. This follows Rousseau's

¹⁴⁷ Government of India Ministry of Water Resources, *supra* note 84.

¹⁴⁸ LOCKE, *supra* note 17, at 312-13.

¹⁴⁹ See generally FLOW: FOR LOVE OF WATER, *supra* note 115.

¹⁵⁰ *Id.*

principle that the right of the society as a whole to access water is greater than that of any one entity.

The entire responsibility of creating and protecting a right to water does not fall on the State or corporations; individuals play a part as well. The key to the social contract working is everyone understanding that they are part of a society and will all need to take a role in the success of that society, including the distribution of resources. Individuals cannot expect the government to provide water regardless of what they do or where they choose to live. However, in situations where an outside source has negatively and dramatically affected the water supply, the State has a responsibility to step in and help provide the right to potable water. Individuals have a responsibility within their community to protect their right to water and not contaminate it to the best of their ability. This falls under the concept of not wasting a natural resource, and Rousseau's idea that since everyone has bound themselves to the same conditions under the State, they all should enjoy the same rights, and implicitly should have the same responsibilities.¹⁵¹ Additionally, individuals have the responsibility not to harm another's life or health by contaminating the water or taking too much water so that others in their community cannot obtain enough water to survive.¹⁵²

IV. CHRISTIAN PRINCIPLES AND THE RIGHT TO WATER

In addition to applying the Social Contract theory to the right to water, applying Christian principles to businesses can help create a sustainable situation in regard to water, while maintaining the profitability of business and the right of individuals to have access to potable water.

The Bible has several principles that, if followed by individuals and businesses, could help the right to water be realized by everyone. The Bible instructs people to be good to and help other people,¹⁵³ take care of resources they are given,¹⁵⁴ work hard,¹⁵⁵ and submit to the authorities.¹⁵⁶ The Bible teaches that the second greatest commandment is to love your neighbor as yourself, and then gives a broad definition that includes any one you may interact with as your

¹⁵¹ ROUSSEAU, *supra* note 17, at 28.

¹⁵² LOCKE, *supra* note 17.

¹⁵³ *Leviticus* 19:9-10; *Luke* 10:25-37; *Romans* 13:9; *1 Timothy* 6:18.

¹⁵⁴ *Ezekiel* 34:2-4.

¹⁵⁵ *Colossians* 3:24; *Ephesians* 4:28; *Titus* 2:7.

¹⁵⁶ *1 Corinthians* 10:24; *Romans* 13:1-7; *Titus* 3:1.

neighbor.¹⁵⁷ Additionally, Leviticus 19:9-10 instructs farmers to leave small portions of their land growing after the harvest and not to pick up dropped food in the fields, but rather leave it for the poor.¹⁵⁸ Ezekiel teaches that people are responsible for the things they are entrusted with and are expected to take care of those resources.¹⁵⁹

In encouraging hard work, the Bible instructs people to work with all their heart, to work rather than steal, and to give to those in need.¹⁶⁰ Additionally, Titus 2:7 instructs believers to always set “an example by doing what is good,” and to teach by showing “integrity, seriousness and soundness of speech that cannot be condemned.”¹⁶¹

One principle the Bible teaches that can be useful when applied to the right of water is submitting to the authorities. Romans 13 instructs believers to submit to the authorities, whom God has put in place, and to pay taxes and debts to those you owe.¹⁶² The concept of submitting to the authorities and being obedient to them is repeated in Titus 3.¹⁶³ Lastly, 1 Corinthians instructs believers to seek things for the good of others.¹⁶⁴

Applying these Biblical principles to corporations can help all individuals in a community to be able to have the right to potable water. It is unimaginable that anyone would voluntarily deprive themselves of drinkable water. If corporations were to treat their neighbors as themselves, they would be highly unlikely to deprive individuals of potable water. Corporations, especially companies dealing in water privatization, should leave water in the local water system for those who cannot afford to buy water. Corporations should also take care of the water they have been given to use, and take precautions to ensure that the quality of the water in their care is not harmed.

Corporations likely work hard, and there are already penalties in place in most societies for actual theft,¹⁶⁵ but any individual corporation can be an example for other corporations in how they deal with water and the community. By setting an example and still having

¹⁵⁷ *Matthew 22:40; Luke 10:25-37.*

¹⁵⁸ *Leviticus 19:9-10.*

¹⁵⁹ *Ezekiel 34:2-4; Matthew 25:14-30.*

¹⁶⁰ *Colossians 3:23; Ephesians 4:28.*

¹⁶¹ *Titus 2:7-8 (New International Version).*

¹⁶² *Romans 13:1-7.*

¹⁶³ *Titus 3:1.*

¹⁶⁴ *1 Corinthians 10:24.*

¹⁶⁵ Although, drastically reducing the quantity or quality of water a community has relied on could be considered stealing from individuals or the State, that type of stealing is not being considered here.

a thriving business, an individual corporation can encourage and entice other businesses to do the same. Eventually, if corporations throughout a State witness other corporations helping with the right to water while still thriving, a chain reaction could occur, and countless people would gain the access to potable water.

Following Romans 13, corporations should submit to the State government and pay the taxes, licensing fees, and fines that are raised against them.¹⁶⁶ Additionally, to follow the principle of seeking things for the good of others, corporations must be considerate of the needs of individuals if they lobby the State government for changes in policy to benefit their business, productivity, or profit.

Corporations that run their businesses according to a Christian business model can be successful, profitable, and honorable to their stockholders, while also helping individuals in their communities realize the right to water. To use a Christian business model for the purpose of creating or protecting the right to water, there are several things a corporation should make an effort to do. A corporation should seek to treat its employees as they would like to be treated, thereby demonstrating the Biblical principal of loving your neighbor as yourself. This will help corporate leaders remember that the people working for them, and the people in the community, are people who have needs, including the need for potable water. Doing this would not cost a business anything; it simply requires a change of attitude between supervisors and employees and, at the very least, will encourage employees—possibly resulting in increased productivity.

Corporations should also take care of natural resources and the environment. Natural resources in an area, specifically water, need to be protected both in quantity and quality. It is possible that adding protections against polluting water resources will add additional cost, but it should not be preventatively costly, and in numerous nations many consumers look for companies that protect the environment and produce sustainable products when deciding from whom to purchase. Additionally, water quantity needs to remain sufficient in the community. Corporations would benefit from applying Leviticus 19:9-10 to their operations, and even though they might be able to gather all the water in a community and use it, they should leave some.¹⁶⁷ This also makes sense from a business perspective because

¹⁶⁶ *Romans* 13:1-7.

¹⁶⁷ *Leviticus* 19:9-10 (New International Version) (“When you reap the harvest of your land, do not reap to the very edges of your field or gather the gleanings of your harvest. Do not go over your vineyard a second time or pick up the grapes that have fallen. Leave them for the poor and the alien.”).

many corporations employ local workers who will not be able to work if they have no water to survive.

By working hard to protect the basic human right to water, and setting an example for other companies, a corporation can lead the way and promote themselves in that capacity in their marketing. Additionally, corporations must consider what the local population needs when they are making decisions that will affect the locality, as recommended in 1 Corinthians 10:24.¹⁶⁸

It is possible to apply Christian business principles to a corporation and still have a thriving company. R.B. Pamplin Corporation (Pamplin Corp.), Herman Miller, Incorporated (Herman Miller), Covenant Transport, Incorporated (Covenant Transport), Interstate Batteries System of America, Incorporated (Interstate Batteries), and R. W. Beckett Corporation (Beckett Corp.) are examples of businesses which have incorporated Christian principles into their business operations in different ways, and have remained successful.¹⁶⁹ While these corporations did not all specifically apply Christian business principles to the right to water, they are good examples of how a corporation can apply Biblical principles to its operations generally, while remaining profitable.

Pamplin Corp. is a textile corporation that has applied the Biblical principles of helping others, taking care of resources, and working hard, to their business.¹⁷⁰ Pamplin Corp. donates 10% of its annual profits to charities, many of which help their local community.¹⁷¹ Through its giving, Pamplin Corp. loves its neighbors and takes care of the resources they have been given. Co-owner Pamplin Jr. once said, “[t]aking care of our employees is very important; loving our neighbor as ourselves is the second commandment.”¹⁷²

Pamplin Corp. has had some issues in regards to polluting the environment. In one situation, dye from a factory was getting into the local community’s water supply.¹⁷³ The corporation worked with the local community, and after a lawsuit, ended up paying 97% of the cost to fix the damage that resulted from the leak.¹⁷⁴ Despite issues with not being proactive in environmental situations, the focus Pamplin

¹⁶⁸ 1 *Corinthians* 10:24 (New International Version) (“Nobody should seek his own good, but the good of others.”).

¹⁶⁹ LEWIS D. SOLOMON, *EVANGELICAL CHRISTIAN EXECUTIVES: A NEW MODEL FOR BUSINESS CORPORATIONS* (2004).

¹⁷⁰ *Id.* at 46.

¹⁷¹ *Id.* at 50-51.

¹⁷² *Id.* at 52.

¹⁷³ *Id.* at 53.

¹⁷⁴ *Id.*

Corp. has put on charitable giving is having a positive impact on the communities where they work.

Herman Miller is a high quality furniture company that has been very successful in business and has applied the Biblical principles of working hard and setting an example within its own leadership structure.¹⁷⁵ The company also demonstrates the Biblical principles of taking care of resources and helping others. The company strives to be socially responsible and improve the environment in their community.¹⁷⁶ Herman Miller does its best to take a proactive rather than responsive approach to the environment by trying to prevent having a negative impact rather than just helping after damage has been done.¹⁷⁷ Additionally, the company has a goal of sustainability – a great goal for the protection of the right to water.¹⁷⁸ Herman Miller also shares a portion of its profits with charitable organizations.¹⁷⁹

Covenant Transport is a publicly held trucking company whose Christian business principles are obvious to its employers, customers, and the public.¹⁸⁰ Honesty and integrity were the primary Christian principles by which Covenant Transport was established, and the company still limits what items it will transport based on the Christian beliefs of the owners.¹⁸¹ While the organization is run by Christians implementing Christian principles, there are no requirements that employees be Christians, and there are places for people of all faiths to pray.¹⁸² Additionally, Covenant Transport demonstrates the Biblical principle of loving your neighbor as yourself through its dedication to superior customer service.¹⁸³ Despite difficult times for the trucking industry, Covenant Transport has managed to survive and profit while applying Christian principles to its daily operations.¹⁸⁴

Interstate Batteries is an example of a business that did not begin with a Christian purpose or by explicitly following Biblical principles, but later changed direction toward a more Biblically based business, and managed to succeed at changing its goals and framework while keeping the business successful.¹⁸⁵ Interstate Batteries is a successful

¹⁷⁵ *Id.* at 98.

¹⁷⁶ *Id.* at 99.

¹⁷⁷ *Id.* at 113.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.* at 115.

¹⁸⁰ *Id.* at 33.

¹⁸¹ *Id.* at 34.

¹⁸² *Id.* at 38.

¹⁸³ *Id.* at 36.

¹⁸⁴ *Id.* at 34-35.

¹⁸⁵ SOLOMON, *supra* note 169.

battery replacement company that has demonstrated the Biblical principle of helping its neighbors through its charitable giving.¹⁸⁶ While most of Interstate Batteries charitable giving goes to Christian organizations, many Christian organizations exist to serve the community.¹⁸⁷ The firm has established a reputation for being fair and ethical.¹⁸⁸ The management at Interstate Batteries also treats its employees as its neighbors and loves them as itself, shown through the extensive efforts the company has taken to provide support for families of employees in difficult times.¹⁸⁹

Beckett Corp. is another example of a corporation that was not based on Christian principles initially, but now has more Biblically based business principles. Beckett Corp. is a company that produces burners for heating homes with fuel oil, and it has incorporated the Biblical principles of working hard and setting a good example for others through its integrity.¹⁹⁰ Like many other Christian based companies, Beckett Corp. has created a working situation for its employees that is favorable toward them, and through that demonstrates the Biblical principle of loving your neighbor as yourself.¹⁹¹ Beckett Corp. also does its best to serve its customers and seek good for them above the company's own interests.¹⁹² Beckett Corp. strives to make the concepts of working hard and helping others a reality by giving at least 5% of profits to charity and providing jobs for people who are disadvantaged.¹⁹³ Beckett Corp. has been successful in leading by example and encouraging its employees to respect and help others, while also remaining a successful business.

Individuals can also apply these Christian principles in a way that will help everyone in their community have access to potable water. People who do have access to water and follow the Biblical principle of taking care of the resources they are given and loving their neighbors will be less likely to waste water, and more likely to share any excess water they do not need with those who do not have access to water. Any one individual can work hard and set a good example for the rest of the members within their community, possibly creating a chain reaction of people working hard and working together to protect the community's water.

¹⁸⁶ *Id.* at 123.

¹⁸⁷ *Id.* at 133.

¹⁸⁸ *Id.* at 132.

¹⁸⁹ *Id.* at 130-31.

¹⁹⁰ *Id.* at 137.

¹⁹¹ *Id.* at 147-51.

¹⁹² *Id.* at 151.

¹⁹³ *Id.* at 153.

Probably the most difficult Biblical principal for individuals who are suffering from a lack of water to follow is the instruction to submit to the authorities. When an individual has no other way to obtain water and survive, it may be necessary to disobey authorities and break the law,¹⁹⁴ but if the State, corporations, and individuals are all applying Christian principles and the Social Contract theory to the right to water, the need of individuals to break the law to obtain water should be drastically reduced.

V. COMBINING THE SOCIAL CONTRACT AND CHRISTIAN PRINCIPLES

By combining the Social Contract theory and property principles provided by Rousseau and Locke with the Biblical principles discussed in the last section at the individual, corporate, and State level, the right to water can be realized by more people around the world. States, through their responsibility to protect individuals' rights, need to encourage corporations to be cognizant of their use and pollution of water within a community. States could create legislation that monetarily punishes corporations and individuals for wasting or polluting water, and use the funds raised to provide potable water to communities whose water supply has been hurt by the State or corporations. Additionally, States must remember that corporations do not have a greater right to water under the Social Contract than citizens do simply because they may be able to provide more to the State in terms of fees and taxes.

Corporations will need to compromise under the Social Contract theory in order to protect the right to water for everyone. Corporations should make environmental sustainability a priority in their business plans as part of their responsibility to not harm anyone's life or health.¹⁹⁵ By doing this, corporations are less likely to suffer punishment by the State for being wasteful. Corporations need to remember Rousseau's concept of taking only your fair share of natural resources, especially during a time of drought. Loving one's neighbor as yourself would mean that during a time of severe drought, corporations might need to consider putting operations requiring a lot of potable water on hold until the worst of the drought is over.

¹⁹⁴ *Romans* 13:1-7 recognizes that there will be situations when authorities may not create laws that are in line with God's word, and in situations where doing right is against the law it is better to do right, but these situations are very limited and require caution.

¹⁹⁵ LOCKE, *supra* note 17, at 289.

Individuals will also need to take part in protecting their right to water. Individuals should react positively towards corporations that are trying to conserve and preserve water in order to encourage the corporation to continue protecting the right to water as well as encouraging other corporations to do the same. In order to benefit from the economic stimulation a corporation can bring to a community, individuals may need to compromise water quantity in excess of what is needed for survival.

States that have promised through international treaties and regional agreements to provide or protect the right to water have the responsibility to do so for their citizens. Comment 15 is a good resource for a State trying to increase the right to water for its citizens.¹⁹⁶ Comment 15's priority on water for personal consumption shows the need for everyone to work together for the good of all by only using the water absolutely necessary in times of drought.¹⁹⁷ Article 8 suggests that States protect the natural resource of water,¹⁹⁸ lining up with Rousseau's concept that the government should protect the rights individuals have given to it.¹⁹⁹ Comment 15 addresses the need for water to be available in sufficient quantity and quality,²⁰⁰ which Locke would agree with in order to prevent harm to another's life and health.²⁰¹ It also fits with the Biblical principles of taking care of the resources you are given and loving your neighbor as yourself.²⁰²

VI. CONCLUSION

The right to water does not require that everyone have potable water within their home, but it does require that States, corporations, and individuals work together to allow everyone to have reasonable access to potable water.²⁰³ The key to applying the Social Contract with Christian principles in order to increase the number of people who have access to potable water is a willingness to cooperate for the common good. By working together and using the Social Contract theory and Biblical principles to protect and maintain the right to water for everyone, corporations can prosper, individuals can survive,

¹⁹⁶ Hartl, *supra* note 5.

¹⁹⁷ *Comment 15, supra* note 13, art. 6.

¹⁹⁸ *Id.* art. 8.

¹⁹⁹ ROUSSEAU, *supra* note 17, at 15.

²⁰⁰ *Comment 15, supra* note 13, art. 12.

²⁰¹ LOCKE, *supra* note 17, at 289.

²⁰² *Ezekiel 34:2-4; Luke 10:25-37; Romans 13:9.*

²⁰³ OFFICE OF THE UNITED NATIONS HIGH COMM'R FOR HUMAN RIGHTS, *supra* note 3, at 10.

and States can fulfill their promises of a right to water for all people. The problem with a lack of potable water for millions of people around the world is not the fault of the State, corporations, or individuals alone, and can only be fixed through cooperation amongst the three.