



HUMAN RIGHTS TO  
WATER AND SANITATION



# PROGRESS

## TOWARDS THE REALIZATION OF THE HUMAN RIGHTS TO WATER AND SANITATION *(2010-2020)*

Report by the Special Rapporteur on the  
human rights to water and sanitation,

**Léo Heller**

**A/HRC/45/11**

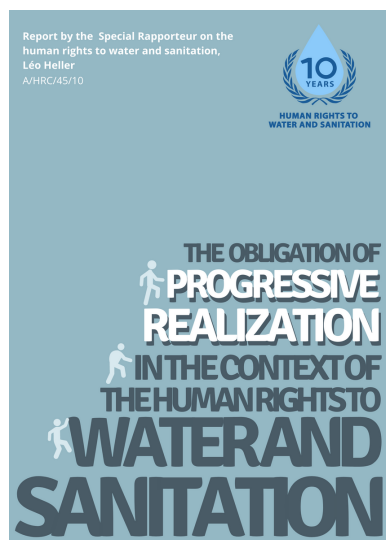
# THE REPORT: IDENTIFYING PROGRESS

In view of the tenth anniversary of General Assembly resolution 64/292 and Human Rights Council resolution 15/9 recognizing the human right to water and sanitation, the Council, in its resolution 42/5, requested the Special Rapporteur on the human rights to safe drinking water and sanitation to initiate and participate in awareness-raising activities, and to compile good practices in order to promote the progressive realization of the human rights to safe drinking water and sanitation. Pursuant to that request, the Special Rapporteur submits the present report, which illustrates selected developments and progress made in realizing the human rights to water and sanitation since 2010.

During the six years of his mandate (2014–2020), in accordance with the vision he identified at the outset of his mandate, the Special Rapporteur prioritized translating existing legal principles and human rights norms into public policies and implementation mechanisms that contribute to the realization of the human rights to water and sanitation (A/HRC/30/39/Add.1, para. 4). The outcomes of his efforts include 12 thematic reports, which highlight the human rights-based approach to various issues related to access to water and sanitation. In the present report, the Special Rapporteur has compiled, in the light of the observations made in his previous thematic reports, examples of progress identified in realizing the human rights to water and sanitation since 2010.

## SELECTING EXAMPLES

In preparation for the report, the Special Rapporteur put out a call for inputs; he received 21 submissions within the deadline. Due to financial limitations on the support provided to the Special Rapporteur to carry out the request made by the Human Rights Council to compile good practices, the Special Rapporteur has targeted the scope of the report, using specific criteria to identify and assess progress in the realization of the human rights to water and sanitation. The questions in the call for inputs reflected those criteria, and the examples of progress provided in the present report are from the submissions received or sources supplementary to the submissions. The selection of cases introduced are not an endorsement by the Special Rapporteur but rather an illustration of possible ways of progressively realizing the human rights to water and sanitation.



## PROGRESSIVE REALIZATION

Even though a decade has passed since water and sanitation have been explicitly recognized as human rights, the specifics of how to implement them require further clarification and understanding.

The present report is being submitted together with the Special Rapporteur's thematic report (A/HRC/45/10), focused on the progressive realization of the human rights to water and sanitation, in which he provides a practical guideline for States to apply when implementing the obligation of progressive realization. That report should be read in conjunction with the present report, which highlights examples of specific aspects of the progress made.

# FOLLOW-UP REPORTS TO OFFICIAL COUNTRY VISITS

Also related to those two reports are the Special Rapporteur's seven follow-up reports related to his country visits, which provide specific examples of progress made in the countries concerned, assessed according to a set of categories he has established.



## Good progress

- Successful implementation of the recommendation and seeming likely to progress further.
- Recommendation not yet fully implemented, but implementation is imminent.



## Progress On-going

- Some concrete and relevant actions have been taken towards implementing recommendation, but the recommendation is not fully implemented.
- Partial but relevant measures/actions taken are likely to lead to the achievement of the recommendation or of a significant content of the recommendation.
- Relevant actions have been taken which putatively address the recommendation, but the outcome of these actions is unclear.
- Signs of positive effort in good faith to progress consistently.
- A draft law is in the process of approval of the parliament or is being endorsed by the Parliament.



## Limited Progress

- Actions have been taken that do not address the recommendation itself.
- Actions have been taken but these do not ensure compliance
- Actions have been taken towards improving access to water, but not sanitation, or vice versa, when the recommendation refers to both.
- Actions are being taken but progress is so slow it is doubtful whether the state is moving as 'expeditiously and effectively as possible'.
- Actions have been taken to address the recommendation in a short-term way, but do not address systemic issues targeted by the recommendation.
- A draft law has been in the works for a long period without making any progress.



## Progress not Started

- No actions have been taken by the Government
- Some actions have been taken which do not address the recommendation itself



## Retgression

- Any measure that may go against or translate in a significant retrogression in the situation on which a recommendation has been issued



## No assessment can be made due to lack of information

- Irrelevant information provided by the Government and no other information found in research
- Information provided that pertains to the recommendation, but is out of date or has methodological issues.
- More information is needed to understand the broader impacts of a policy.
- Vague information and non-verifiable information has been provided on measures adopted and the recommendation has not been implemented.

# TIMELINE: RECOGNITION OF WATER AND SANITATION AS HUMAN RIGHTS

2002

The Committee on Economic, Social and Cultural Rights adopted general comment No. 15, in which it states that the right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival (para. 3), and reiterates that water is a human right contained in article 11 (1) of the International Covenant on Economic, Social and Cultural Rights.

2010

The adoption of General Assembly resolution 64/292 in July 2010 represented a growing understanding that the human rights to water and sanitation are derived from and inextricably linked to the right to an adequate standard of living, the right to health and the right to life.

That landmark resolution paved the way for subsequent actions by the international community, including Human Rights Council resolution 15/9, adopted in September 2010, in which the Council affirmed that recognition.

2015

Five years later, the General Assembly, in its resolution 70/169, recognized the human right to safe drinking water and the human right to sanitation as two distinctive rights, which had distinct features which warranted their separate treatment in order to address specific challenges in their implementation.

2020

The year 2020 marks the tenth year since the General Assembly recognized safe drinking water and sanitation as human rights. To celebrate, in 2020, the Special Rapporteur organized a year-long campaign, with each month focused on different themes. The year 2020 also marks a juncture that points to the continued need to advocate for water and sanitation as human rights but, at the same time, to move beyond advocacy and to highlight the challenges in their implementation.

The year 2020 also marks a juncture that points to the continued need to advocate for water and sanitation as human rights but, at the same time, to move beyond advocacy and to highlight the challenges in their implementation. It is necessary to move towards concrete steps to realize the human rights to water and sanitation. Those rights are reflective of the basic needs of humans and, therefore, are intuitive at first glance. For their full realization, an understanding of the in-depth substantive dimensions behind the intuitive understanding is essential, but unfortunately not yet widely shared. Throughout the campaign, the Special Rapporteur highlighted some of the substantive aspects, which he analysed in depth in his thematic reports. As a continuation of the campaign, which built bridges between the conceptual and theoretical aspects of the human rights to water and sanitation and their practical implementation on the ground, the Special Rapporteur highlights in the present report specific examples of those bridges.

# HUMAN RIGHTS AS A DRIVER

A human rights-based approach to water and sanitation entails identifying the attributes of access to water and sanitation and identifying groups in vulnerable situations who do not have adequate access to water and sanitation.

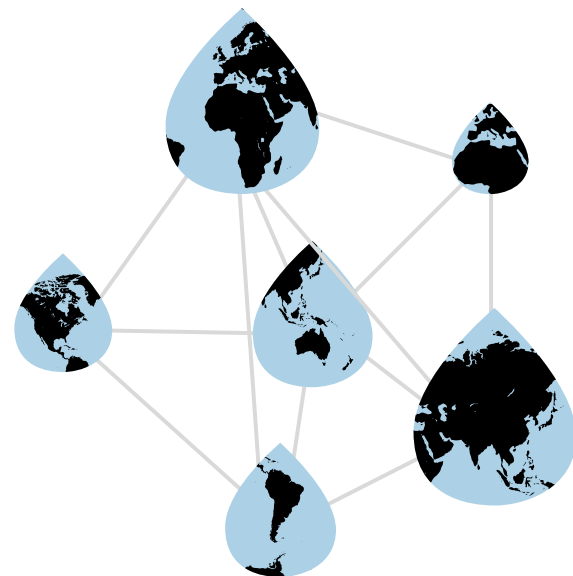
Such a rights-based approach further entails inquiring about the root causes of the attributes and the structural determinants, or drivers, of the exclusion.

To do so, human rights is used as an analytical lens to identify the structural causes of inequalities in access to water and sanitation and other violations, including non-realization, of the human rights to water and sanitation.

## DEVELOPMENT COOPERATION

### WHY DEVELOPMENT COOPERATION?

The Special Rapporteur notes that his inspiration for the two reports on development cooperation came from attending international conferences such as World Water Week, where he saw that funders had strong voices and a strong interest in water, sanitation and hygiene but were having conversations without any reference to human rights. In the two reports, the Special Rapporteur addressed that gap and explored ways in which the development process could include the human rights framework.



### THE REPORTS (A/71/302, A/72/127)



In his first report on development cooperation, the Special Rapporteur provided a preliminary analysis of the linkages between development cooperation and the human rights to water and sanitation, examining the human rights approaches of funders, the evolution of development cooperation in the sector and trends in funding patterns. Based on the theoretical framework developed in the that report, the Special Rapporteur, in his second report, examined how funders contributed to the realization of the human rights to water and sanitation, through an empirical analysis of six case studies.

Given the limitation observed in incorporating the human rights framework into development cooperation for the water and sanitation sector, the Special Rapporteur assesses the progress made since 2010 on the basis of whether funders' policies fully incorporate the human rights to water and sanitation and whether those human rights-based policies are being reflected in the design and implementation of development cooperation projects. The specific criteria used for the assessment of progress include actions taken to address the disparity between water and sanitation projects in rural areas and those in urban areas, and the measures taken to target groups in vulnerable situations.

## PROGRESS SINCE 2010

### DECREASE DISPARITIES BETWEEN WATER AND SANITATION PROJECTS IN RURAL AREAS AND THOSE IN URBAN AREAS

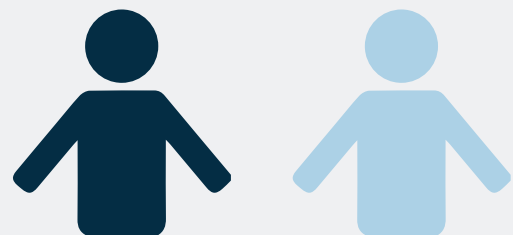
In **Mexico**, the programme for the sustainability of drinking water and sanitation services in rural communities, financed by the Inter-American Development Bank, is designed for rural communities with less than 10,000 inhabitants, giving priority to communities with water coverage of less than 20 per cent.



Another example is the development cooperation policy of **Finland**, which is focused on the geographical areas most in need of additional resources for water and sanitation. For instance, Finland supports the Community-led Accelerated Water, Sanitation and Hygiene for All project implemented in Ethiopia, which targets the country's rural areas, where nearly 80 per cent of the population live.

### MEASURES TAKEN TO TARGET GROUPS IN VULNERABLE SITUATIONS

For instance, in **Costa Rica**, one priority of the drinking water and sanitation programme, financed by the Central American Bank for Economic Integration, is to cover the needs of populations in situations of high social and economic vulnerability



### TAKING STEPS TO ALIGN STRATEGIES WITH THE HUMAN RIGHTS FRAMEWORK



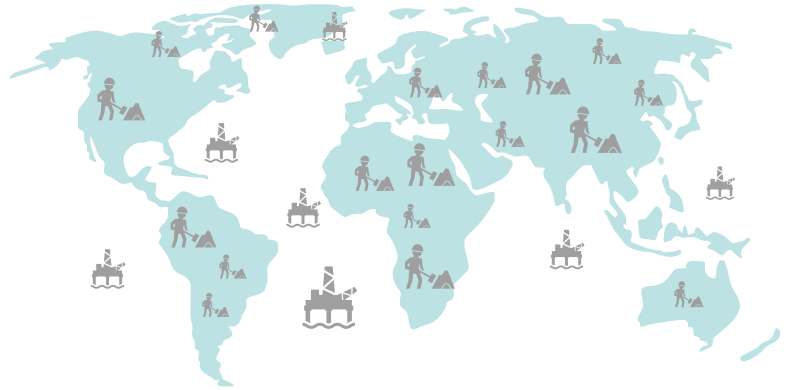
For example, **WaterAid** focuses its global strategy on reducing inequalities in access to water and sanitation, in particular those preventing economically vulnerable and the most marginalized populations from realizing their rights to water and sanitation

# MEGAPROJECTS

## WHY MEGAPROJECTS?

Megaprojects are double-edged: they may contribute towards the enhancement of people's livelihoods but may also impede the enjoyment of the human rights to water and sanitation.

The impacts of megaprojects are not related to the human rights to water and sanitation only. The wide range of megaprojects mirrors the extensive array of impacts arising therefrom and the implication for the exercise of various human rights by groups in vulnerable situations, particularly indigenous peoples, and human rights defenders advocating the rights of those affected by megaprojects.

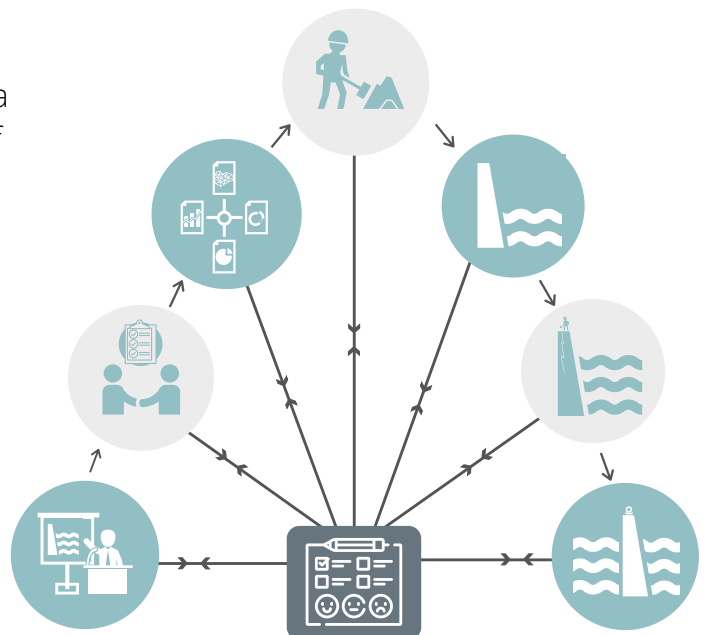


The Special Rapporteur witnessed the two sides of this coin while interacting with civil society organizations, which brought concerns related to the impact of megaprojects to his attention. He highlighted some of those concerns in allegation letters to States and other stakeholders. Furthermore, he raised concerns about the impact of megaprojects during some of his official country visits, for example to India, Lesotho, Malaysia, Mexico and Tajikistan.

## THE REPORT (A/74/197)

In order to prevent and mitigate the risks arising from such projects and to ensure compliance with human rights, the Special Rapporteur introduced a megaproject cycle framework for the realization of the human rights to water and sanitation, consisting of seven stages, each of them entailing impacts on access to water and sanitation, challenges and enabling factors to realize the human rights to water and sanitation.

He clarified each stage of the megaproject cycle and provided a list of questions that constituted guidelines for accountable actors to implement their human rights obligations and responsibilities.





Megaprojects are generally authorized, planned, constructed and operated without a human rights impact assessment. Human rights impact assessments are rarely a precondition for megaprojects, implying that the progress in incorporating the human rights framework in all stages of megaprojects is minimal. The limited extent of the progress made is closely related to gaps and limitations found in the national policies of States, which often incorporate partial elements of the human rights to water and sanitation and selected human rights principles.

**PROGRESS  
SINCE 2010**

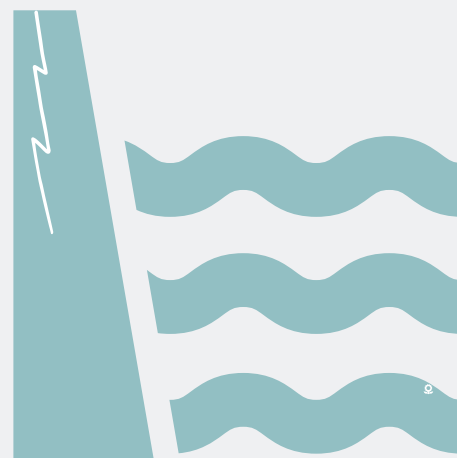
## LIMITED PROGRESS IN NATIONAL POLICY



In **Mexico**, the national development plan for 2013–2018 called for full respect for human rights, with a vision of leaving no one behind in all governmental actions, including those related to megaprojects. The plan also advocates for a development model that is respectful of people and their habitat, aimed at correcting and not exacerbating inequalities, and at defending cultural diversity, especially with regard to indigenous peoples. For example, the plan requires involving indigenous peoples in the design and implementation of the Tren Maya megaproject, a road infrastructure project in the Yucatan Peninsula.

## PREVENTIVE AND COMPENSATION MEASURES IN THE EVENT OF A DISASTER

In **Costa Rica**, the metropolitan aqueduct supply programme includes a strategy to inform affected communities about the preventive, mitigation and compensation measures in place. One of these measures establishes compensation for modifications in water sources due to underground excavations. The programme also enables the participation of affected populations in the monitoring of project construction and operation.





# HUMAN RIGHTS AS A POLICY TOOL



The human rights framework is a powerful tool that can be used in policymaking and decision-making processes at the national level to implement human rights obligations.

As a policymaking tool, the human rights-based approach focuses on the interpretation of legal, political, institutional and regulatory dimensions of human rights.

By examining the extent to which the human rights to water and sanitation framework is incorporated into those dimensions, several gaps in human rights implementation can be identified and addressed.

## DIFFERENT LEVELS AND TYPES OF SERVICES

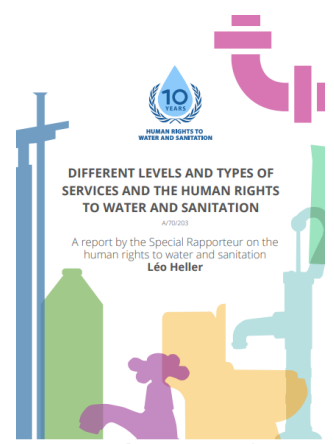


## WHY DIFFERENT LEVELS AND TYPES OF SERVICES?

In 2015, it was a time of transition from the Millennium Development Goals to the Sustainable Development Goals. At that time, the discussion on levels of water and sanitation services was essential and the Special Rapporteur aimed to contribute to that discussion by clarifying how to include the human rights framework in the definition of levels of services that comply with the human rights standards. In his first thematic report to the General Assembly, the Special Rapporteur emphasized the different types of water, sanitation and hygiene services and the need to assess human rights concerns associated with those types depending on their contexts. Different types of water, sanitation and hygiene services exist, including connection to a piped network, shared facilities and individual on-site solutions.

## THE REPORT (A/70/203)

In the [report](#), the Special Rapporteur explored each combination, which needed to be assessed depending on its context and on how and to what extent it complied with the human rights to water and sanitation. The realization of those rights is influenced by how these different types of services are delivered and the extent to which the State oversees the service provided. This discussion cannot be isolated from the contexts in which service types and management options are applied.



## MONITORING THE SUSTAINABLE DEVELOPMENT GOALS

Since the adoption of the Sustainable Development Goals, to visualize trends in service levels, the **WHO/UNICEF Joint Monitoring Programme** for Water Supply, Sanitation and Hygiene, responsible for reporting on progress towards targets related to drinking water, sanitation and hygiene, has been using a service “ladder” approach, based on levels of services for water, sanitation and hygiene.

According to Joint Monitoring Programme estimates, between 2010 and 2017, over 100 million and 130 million people every year have gained access to at least basic water services and at least basic sanitation services, respectively. Furthermore, access to piped water and sanitation has also followed an uptrend, with yearly increases of nearly 74 million and 64 million people using piped water services and sanitation services, respectively.



However, trends in at least basic services fail to provide the full picture of what has changed since 2010, especially in terms of realizing the human rights to water and sanitation. Various studies conducted between 2016 and 2018 revealed an important gap between at least basic services that provided reliable, safe and affordable water and sanitation and those that were intermittent, of poor quality and too expensive.

## TAKING INTO CONSIDERATION THE SPECIFIC CONTEXT OF THE COUNTRY



In **Colombia**, community-managed services have emerged as the most appropriate way to supply rural communities. The Red Nacional de Acueductos Comunitarios de Colombia reports that there are more than 12,000 community organizations in the country delivering water services through an approach based on principles such as democratization, decentralization and social and environmental justice.

## GUIDELINES TO HELP ASSESS WHAT THE MOST APPROPRIATE MANAGEMENT MODEL WOULD BE FOR A SPECIFIC SETTING

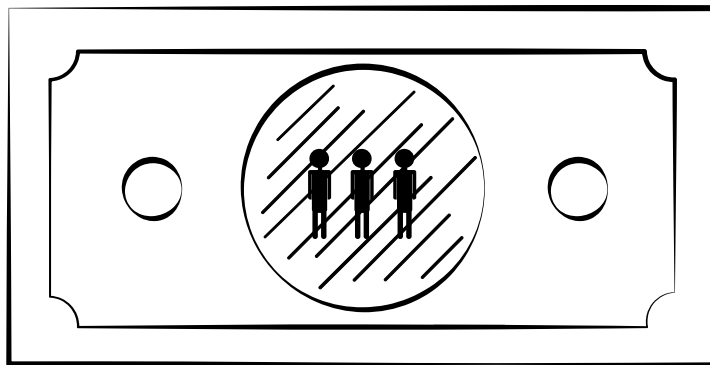
While limited to piped water provision, a guideline developed by **WaterAid** is aimed at assisting decision makers in selecting the best management model for piped water in rural and small-town contexts. The guide assesses the best management typology depending on the specific context, in particular the commercial viability, technical complexity and local capacity, sector legislation and regulation. Faecal sludge management and excreta-flow diagrams are tools that have been used by WaterAid in different countries for the analysis of urban on-site sanitation systems and the selection of the most appropriate management model



# AFFORDABILITY

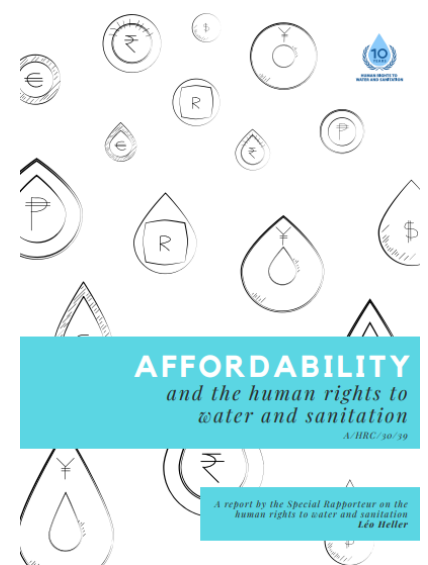
## WHY AFFORDABILITY?

Among the gaps in studies that existed at the time of his appointment in 2014, the Special Rapporteur found two areas that needed to be explored further from a human rights perspective. First, how should affordability as an element of human rights to water and sanitation be monitored and what thresholds should be established? The Special Rapporteur notes that traditionally, the threshold had been based on the share of income and percentages, which he found too simplistic. The second gap relates to implementing procedural measures and policies to ensure access to protect the economically vulnerable in terms of financial accessibility.



## THE REPORT (A/HRC/30/39)

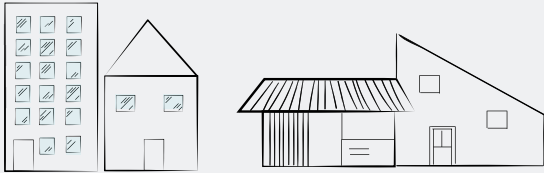
In the report on affordability, the Special Rapporteur emphasizes that, from a human rights perspective, the starting point for State decision-making on public financing and policy for water and sanitation service provision is that water and sanitation must be affordable to all. However, it is impossible to set a generally applicable affordability standard at the global level. Any such standard would be arbitrary and could not reflect the challenges people face in practice and the context in which they live, including how much they need to spend on housing, food and the realization of other human rights. Access to water and sanitation should be affordable for all and as such States should have in place mechanisms to ensure the affordability of those services. Further, it follows that disconnection of water services due to inability to pay constitutes a violation of the human right to water.



The progress made is assessed based on two elements, namely, specific mechanisms implemented to ensure the affordability of water and sanitation services and specific measures taken to prohibit disconnections due to inability to pay.

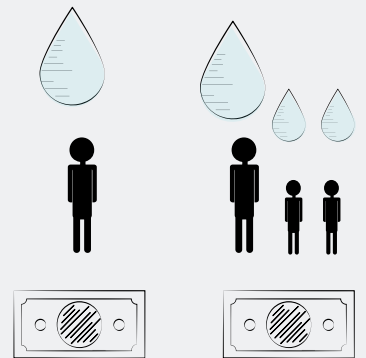
## PROGRESS SINCE 2010

### SPECIFIC MECHANISMS IMPLEMENTED TO ENSURE THE AFFORDABILITY OF WATER AND SANITATION SERVICES



In **Mexico City** there is a territorial differentiation of tariffs: each neighbourhood (manzana) pays a different tariff, depending on its development index, which is based on the average marginalization, income and property values. This means that households from neighbourhoods with a low development level pay lower bills.

Another affordability measure is the provision of subsidies to the most vulnerable groups. In **Costa Rica**, for instance, Law No. 2726 of 1961 indicates that tariffs need to be set under the principle of distributive social justice, which translates into a cross-subsidization system (through tariffs) between those who have a greater capacity to pay and those who cannot pay the full cost of the service.



To help the most vulnerable households cover tariffs, the Government of **Singapore** provides social assistance, via annual vouchers of between SGD 40 and SGD 120, to those in public housing.

In **Slovenia**, there is a procedure that allows municipalities to subsidize the cost of services for households in economic deprivation (for example, because of unemployment) through the municipal budget

### SPECIFIC MEASURES TAKEN TO PROHIBIT DISCONNECTIONS DUE TO INABILITY TO PAY

Most recently, due to the coronavirus disease (COVID-19) crisis, the national water provider in **Costa Rica** issued Directive GG-2020-01225, which suspends all disconnections to water and sanitation due to non-payment (from 20 March 2020 until further notice).

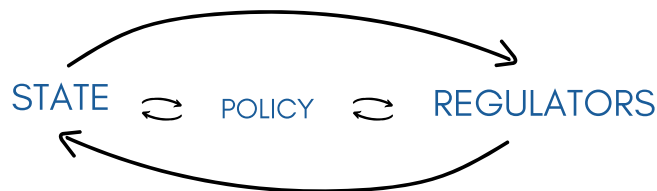
In **Poland**, the Act on collective water supplies and wastewater collection permits disconnection in case of non-payment, however, it obliges the utilities to provide users with a substitute water source.

Another way to address disconnection due to inability to pay is found in **Colombia**, where community-managed systems operate under the principle of solidarity and reciprocity, which means that communities can make both financial and in-kind contributions for the delivery of services. For instance, users are not disconnected in case of monetary non-payment, but asked to contribute in the form of labour, such as support in administrative or maintenance tasks.

# SERVICE REGULATION

## WHY SERVICE REGULATION?

Since 2010, the importance of creating an enabling environment, namely, policy, legal, institutional and regulatory frameworks, for the progressive realization of the human rights to water and sanitation has been increasingly recognized. Regulation, in particular, is an essential part of a State's human rights obligations. Service regulation can contribute towards the progressive realization of the human rights to water and sanitation. However, the Special Rapporteur observed that regulation of water and sanitation services has been based mainly on economic regulation and that its objectives, activities and norms are rarely derived from the human rights framework.



## THE REPORT (A/HRC/36/45)

Regulation can take many forms, each with varying levels of capacity to comply with human rights. In the report on service regulation, the Special Rapporteur explored the distinction between fully incorporating the human rights to water and sanitation into a regulatory framework and choosing some selected aspects of those rights to comply with. One of the key roles of regulation is to set performance standards from a human rights perspective as opposed to from an economic perspective.

Regardless of the body carrying out regulatory functions, these standards should reflect and give practical meaning to the normative content of the human rights to water and sanitation, with regard to availability, accessibility, quality and safety, affordability, and acceptability, privacy and dignity. While international human rights law does not call for a particular choice of a regulatory framework, it is essential, from a human rights perspective, that those carrying out regulatory functions be immune to pressures from any illegitimate interests and that the main objectives of regulation be aligned with the human rights framework.

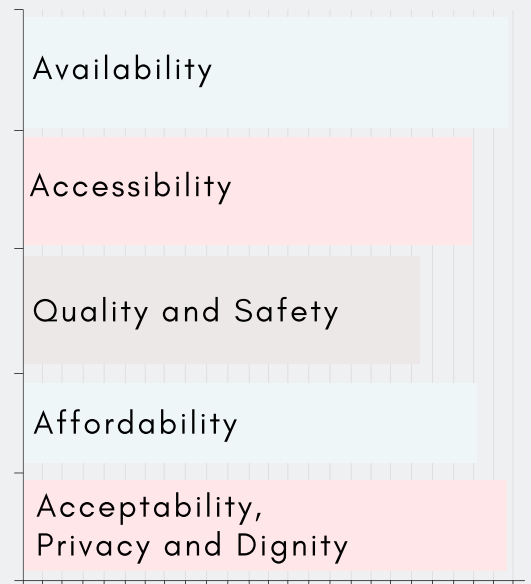


## PROGRESS SINCE 2010

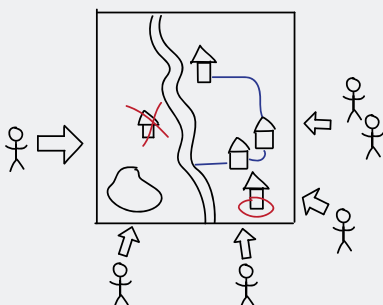
Several States have established a regulatory body or framework to regulate water and sanitation services. However, given that those regulatory frameworks mostly prioritize an economic perspective, the criteria used to identify progress focus on the incorporation of a human rights-based approach to the regulation of water and sanitation services provision. Specifically, whether the regulatory body is independent and whether it is aligned with the human rights framework in full.

### ALIGNING REGULATORY FRAMEWORKS OR BODIES WITH THE HUMAN RIGHTS FRAMEWORK

One example is the Office of the Superintendent of Basic Sanitation in the **Plurinational State of Bolivia**, designated as the regulatory body in accordance with Law No. 2066 of 2000, which establishes the institutional and regulatory framework for water and sanitation services. This body is responsible for overseeing the operation of service providers, recommending tariffs to the different municipalities and applying sanctions to service providers in cases of non-compliance. With regard to tariff setting, the regulatory body has to take into account several principles, some in line with the human rights framework, such as: solidarity (the tariff structure must distribute costs so that prices take into account the ability to pay of the different users), non-discrimination (all users falling under the same tariff category must pay the same prices), simplicity (tariffs must be elaborated in such a way that they are easy to comprehend, apply and control) and transparency (the tariff structure must be explicit and available to all the parties involved in the service).



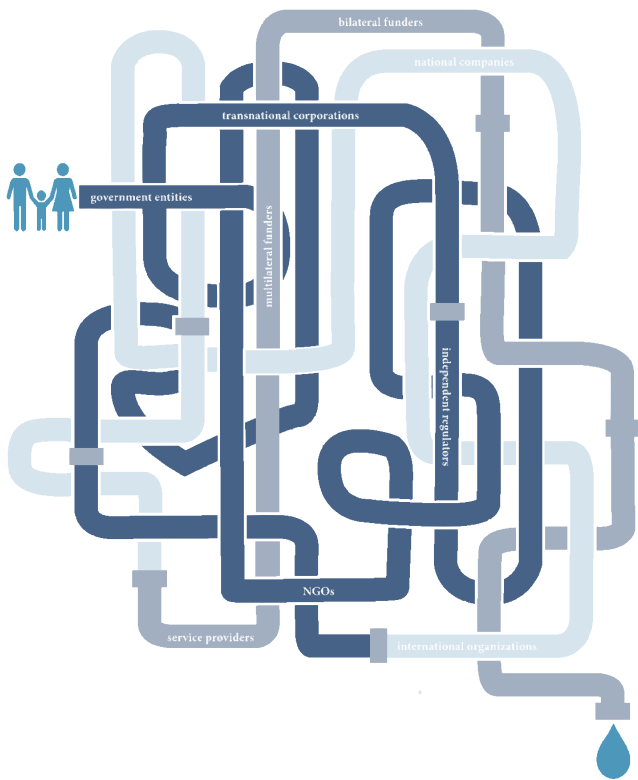
### REGULATING INFORMAL PROVISION



The Public Services Regulatory Authority of **Costa Rica**, designated as the regulatory body for all public services, including water and sanitation, in accordance with Law No. 7593/1996, is responsible for tariff setting and monitoring the compliance of the quality, quantity, continuity and reliability of the services provided. In this case, tariffs are set under the principles of social equity, environmental sustainability and economic efficiency, but without hindering the financial viability of service providers.



# THE PRINCIPLE OF ACCOUNTABILITY

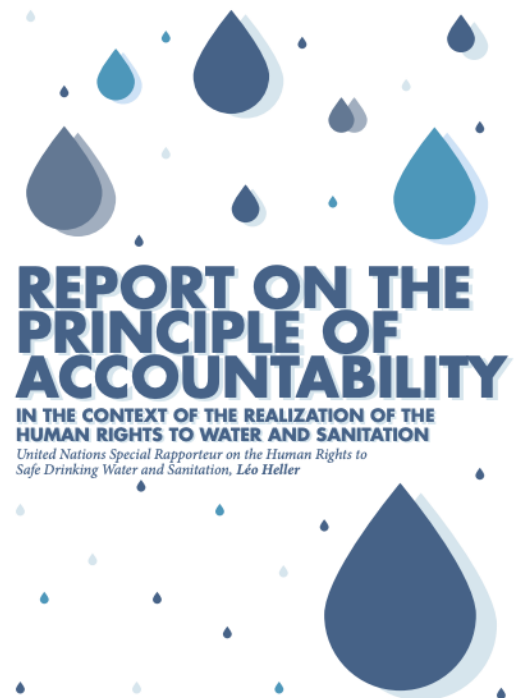


## WHY ACCOUNTABILITY?

Despite the focused attention on the principle of accountability, the Special Rapporteur had observed that it nonetheless often remained misunderstood by the water, sanitation and hygiene community. He felt that it was important to translate the concept beyond the human rights circle so that it was understandable and so that it could be translated into the realities of the water, sanitation and hygiene sector. Explicit inclusion of the human rights to water and sanitation in national legislation is essential to assist individuals and groups in claiming those rights and to hold Governments accountable.

## THE REPORT (A/73/162)

In the report, the Special Rapporteur unfolded the principle of accountability taking into account the complexity of actors in the water and sanitation sector. The Special Rapporteur addressed the concept of accountability through a three-dimensional approach: actors involved in the provision and regulation of water and sanitation services must have clearly defined responsibilities and performance standards; actors must provide explanations for and justification of their actions, inaction and decisions to affected populations (roles and responsibilities), which implies access to information in a transparent manner and spaces for interaction between actors and affected people (answerability); and mechanisms should be in place to oversee and ensure actors' compliance with established standards, impose sanctions and ensure that corrective and remedial action is taken (enforceability).





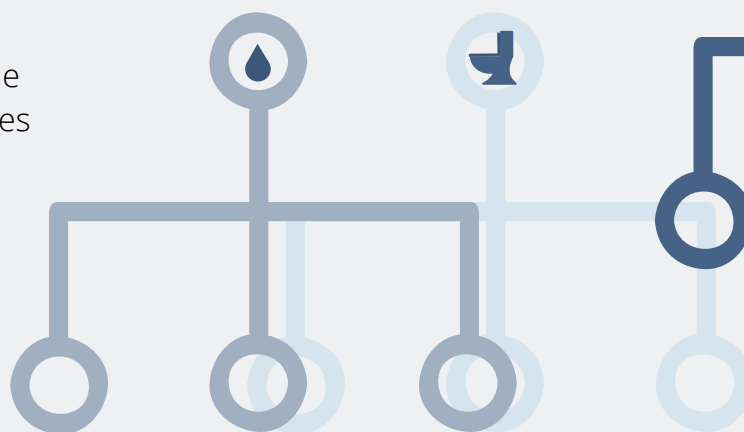
The criteria to assess progress made followed the three dimensions of accountability illustrated in the Special Rapporteur's report: roles and responsibility; answerability and enforceability.

## PROGRESS SINCE 2010

### CLARIFYING ROLES AND RESPONSIBILITIES

In the **Plurinational State of Bolivia**, for example, Law No. 2066 of 2000 defines the attributions and obligations of the different actors of the sector, including public institutions (the Ministry of Housing and Basic Services, the Ministry of Sustainable Development and Planning, department prefectures and municipalities), the regulator (the Office of the Superintendent of Basic Sanitation) and service providers, both public and private. For instance, among its roles, the Ministry of Housing and Basic Services is in charge of formulating and implementing policies for service provision, setting the regulatory framework and formulating financial policies for the development and sustainability of services.

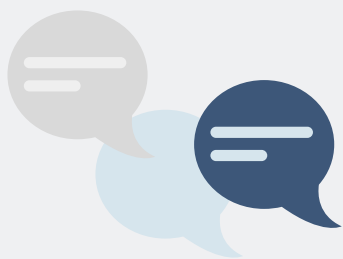
In **Slovakia**, Act No. 442 of 2002 outlines the rights and obligations of the public administrative bodies in the area of water supply and sewerage, including the Ministry of Environment, district offices and municipalities.



### ENHANCING THE DIMENSION OF ANSWERABILITY

In the **Plurinational State of Bolivia**, there is a procedure for public oversight, applicable to all public authorities, including those dedicated to water and sanitation service provision, to ensure answerability to citizens. According to this process, public authorities are required (at least twice a year) to gather information on their plans and actions, and present it to civil society in a series of public hearings.

In **Timor-Leste**, WaterAid has promoted the use of community scorecards as a social audit instrument, to improve the understanding among users in communities of the services they are entitled to and, consequently, to help users hold service providers accountable.

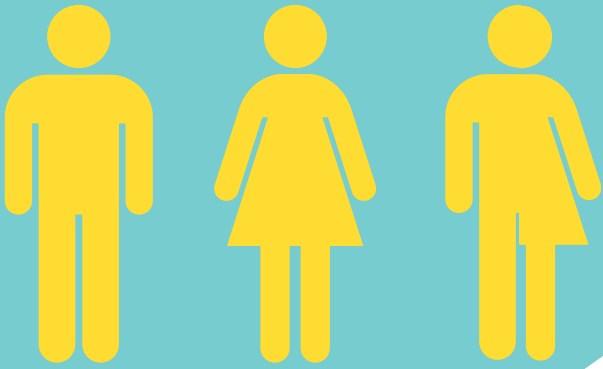


### PROMOTING ACCOUNTABILITY

The **Water Integrity Network** focuses on promoting four elements of water integrity, that is, transparency, accountability, participation and prevention of corruption. In 2015, the Network developed a training manual on water integrity, in which it highlighted the importance of clarifying clear and separate roles and responsibilities among actors to strengthen accountability and transparency.

Most recently, the #ClaimYourWaterRights campaign by **End Water Poverty** emphasized the role of national human rights institutions in holding the actors in the water and sanitation sector accountable.

# HUMAN RIGHTS AS A PEOPLE-CENTRIC APPROACH



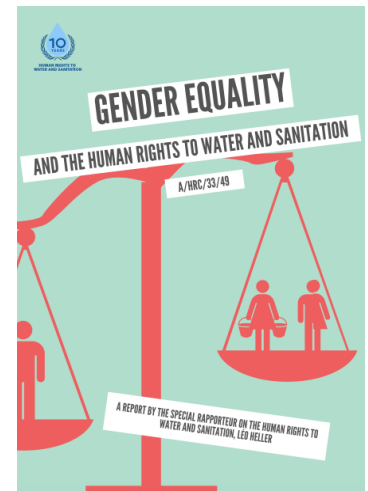
A human rights-based approach coincides with a people-centric approach in that the rights holders and the protection of their rights are at the centre.

For the third dimension, focused on people, the Special Rapporteur paid specific attention to particular groups that are affected by insufficient water and sanitation services, such as women and girls; persons in situations of homelessness; and forcibly displaced persons, including refugees and internally displaced persons.

## GENDER

### WHY GENDER EQUALITY?

At the time of the Special Rapporteur's appointment, achieving gender equality was an important issue on the agenda of the international community, yet the issue of gender equality had not been fully explored in the water and sanitation sector through a human rights framework. Furthermore, the Special Rapporteur observed that there still existed unexamined gaps with respect to, among other issues, menstrual hygiene, and access to water and sanitation by lesbian, gay, bisexual, transgender and intersex persons.



### THE REPORT (A/HRC/33/49)

In his 2016 report on gender equality, the Special Rapporteur emphasized that root causes of gender inequalities in the enjoyment of the human rights to water and sanitation were complex and context dependent. States must develop and implement gender-responsive policies, budgets and regulations that address the specific needs of women and girls. In order to attain substantive equality, it is necessary to address the specific gendered circumstances that act as barriers to the realization of those rights for women and girls in practice. Likewise, structural gender inequalities have an inevitable impact on the enjoyment of the rights to water and sanitation. Any approach to overcoming gender inequalities in respect of the rights to water and sanitation must therefore address women's strategic needs, including through the eradication of harmful gender-based stereotypes, alongside interventions focused on the fulfilment of women's material needs, such as adequate menstrual hygiene facilities.

Gender equality is a fundamental human rights principle, yet inequalities between men and women, and on the basis of gender identity, continue to be observed in all countries. In the water and sanitation sector, gender inequalities are profound and tackling them requires addressing structural, social, economic and cultural discriminatory patterns. The assessment of the progress made thus includes a specific focus on the measures implemented to redress gender inequalities in water and sanitation provision.

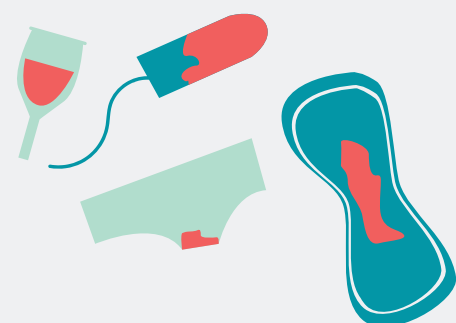
**PROGRESS  
SINCE 2010**

## MEASURES TO REDRESS GENDER INEQUALITIES IN THE PROVISION OF AND ACCESS TO WATER AND SANITATION



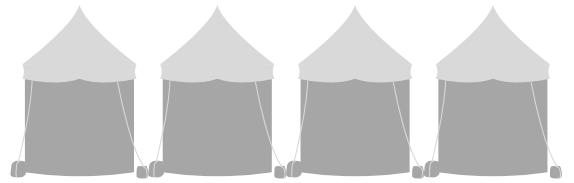
For instance, the national strategy on water and sanitation in rural areas and small communities introduced in the **Plurinational State of Bolivia** in 2016 includes a gender-based perspective in all water and sanitation projects, and that approach has been translated into several guidelines. Most recently, the 2019 operational guidelines for water and sanitation projects in rural areas sets out a series of lines of action for implementation in all phases of the project cycle, including technical, social and institutional components.

Another example is the guidance note issued by **Finland** in 2015 on the implementation of a human rights-based approach to development cooperation, which includes gender mainstreaming as a cross-cutting objective. The guide notes the importance of identifying the different roles and responsibilities women and men have in particular contexts and the relationships those roles have with access to power, resources and decision-making.



**WaterAid** has also developed series of guidelines to redress gender inequalities in water and sanitation programmes. For instance, the manual developed by **WaterAid Timor-Leste** on gender aspects of water, sanitation and hygiene is focused on facilitating community dialogue on gender issues, and is aimed at deepening community understanding of the rights of women and men and supporting the community in achieving positive changes towards gender equality. The Menstrual Hygiene Matters toolkit from WaterAid guides the building of competence and confidence of staff in the water, sanitation and hygiene and other sectors to engage in advocacy on menstrual hygiene.

# FORCIBLY DISPLACED PERSONS

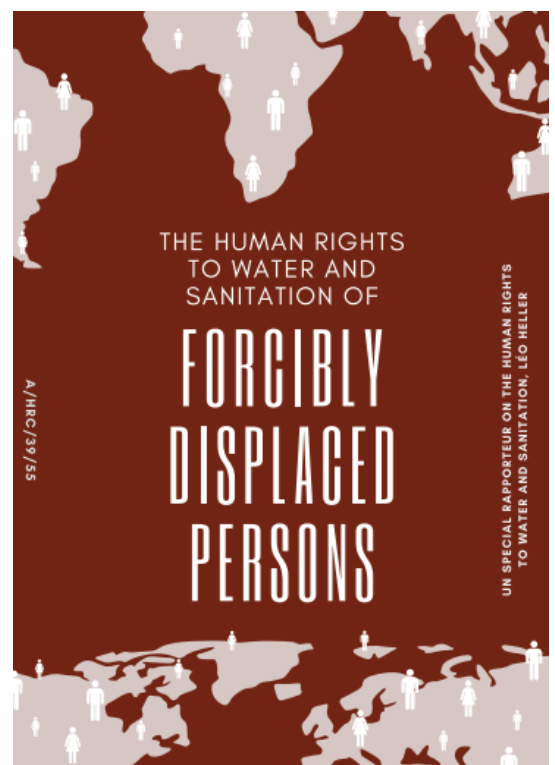


## WHY FORCIBLY DISPLACED PERSONS?

Since 2010, there has been a significant spike in the numbers of refugees, internally displaced persons and displaced populations. According to the Office of the United Nations High Commissioner for Refugees, the crisis in the Syrian Arab Republic has led to over 5.5 million registered Syrian refugees (285,000 living in refugee camps) since 2015; in Nigeria, since 2014, the Boko Haram insurgency has displaced over 2.4 million people, with over 290,000 Nigerian refugees in neighbouring countries; and over 710,000 Rohingya refugees have fled to Bangladesh since 2017. In addition, a large number of refugees live in host communities and in locations beyond camp boundaries. Such a rise in the population of forcibly displaced persons has led to more discussions on the challenges and responses associated with access to water and sanitation.

## THE REPORT (A/HRC/39/55)

Given the increase in the number of forcibly displaced persons worldwide, the Special Rapporteur submitted a thematic report focused on the rights to water and sanitation of such persons, in particular internally displaced persons, refugees, asylum seekers and migrants in vulnerable situations, while en route, at borders, at reception and at the destination. In the report, the Special Rapporteur highlights that forcibly displaced persons are rights holders, who are entitled to enjoy access to adequate drinking water and sanitation services, and not mere recipients of aid. Receiving countries cannot justify restrictions on the enjoyment of the essential content of economic, social and cultural rights on the basis of a lack of resources. Economically developed States, as well as others that are in a position to assist, have international obligations and responsibilities to ensure the essential access to water and sanitation. States have no justification for providing forcibly displaced persons with substandard water and sanitation services as a means to restrict their entry into the territory of the State or as a means to deter people from staying.



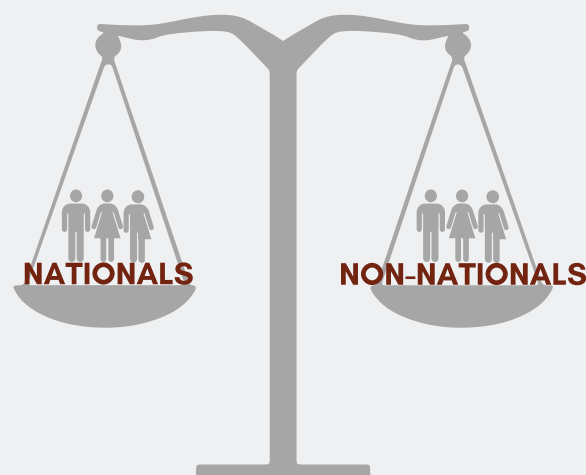
The Special Rapporteur expressed his concern that forcibly displaced persons are often seen as recipients of aid and that humanitarian actors quickly implement “life-saving” assistance without setting a time frame for moving towards the progressive realization of the rights of displaced persons or without the due participation of those who are affected. In response to such concerns, the assessment on the progress made focuses on two criteria. The first criterion relates to the measures in place to guarantee the enjoyment of the human rights to water and sanitation by forcibly displaced persons in transit or at their destination with the same conditions as those granted to nationals of the States concerned, regardless of their legal status and documentation. The second criterion relates to how States and humanitarian actors have ensured immediate access to the minimum essential level of water and sanitation on a non-discriminatory basis during situations of emergency.

## PROGRESS SINCE 2010

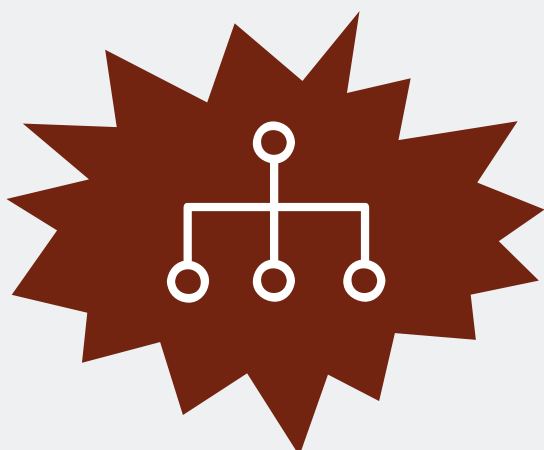
### BEYOND 'LIFE-SAVING'

The submissions received did not specify any measures addressing and guaranteeing the human rights to water and sanitation of forcibly displaced persons and did not refer to any specific examples that showed progress according to the two criteria mentioned above.

However, at least one example demonstrated State efforts to include water and sanitation in national plans addressing situations of emergency.

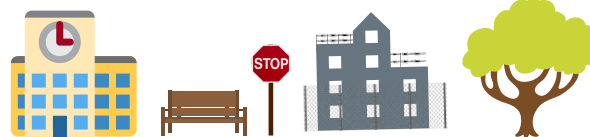


### ENSURING THE OPERATION OF WATER AND SANITATION PROVISION IN EMERGENCY SITUATIONS



In **Mexico**, the National Water Commission adopted various measures to ensure immediate access to minimum essential levels of water and sanitation services during situations of emergency. For instance, the new operational rules of the programme on drinking water, sewerage and sanitation allow for resources to be channelled to municipalities where there is an urgent risk to people’s health or integrity. This means that the programme can be used to support projects, works and actions in emergencies, for instance to cover the expenses inherent in the urgent delivery of water and sanitation.

# SPHERES OF LIFE BEYOND THE HOUSEHOLD



## WHY SPHERES OF LIFE BEYOND THE HOUSEHOLD?

At the national level, the focus of water and sanitation policies mainly addresses improving access at the household level, leaving the importance of access to water and sanitation in many spheres beyond the household largely unrecognized. However, during his official visits, the Special Rapporteur encountered numerous individuals, groups and communities whose need for access to water and sanitation extended beyond the household and whose lives were negatively affected when such access was inadequate. The WHO/UNICEF Joint Monitoring Programme for Water Supply, Sanitation and Hygiene expanded its global database to include access to water, sanitation and hygiene in some institutional settings. However, the Goals were limited in that they focused on formal households, workplaces and institutions, leaving a gap in access to water and sanitation beyond those spheres, particularly public spaces

## THE REPORT (A/HRC/42/47)

Domestic legislation and policy regarding water and sanitation are, more often than not, focused only on improving access at the household level, while spheres beyond the household are rarely on the radar of national or local governments, service providers or regulators. As a result, potential violations of human rights occur frequently and disproportionately affect persons who live in vulnerable situations, such as persons in situations of homelessness. In the report, the Special Rapporteur argues that public spaces, as zones accessible to all, are lifelines for numerous people and, accordingly, must be given due recognition in the water and sanitation policies of States.



*The assessment of progress made since 2010 focuses on the addressing of this gap, namely, whether specific measures exist, such as national policies, plans, and implementation strategies and guidelines, that specifically include water and sanitation in spheres of life beyond the household, and particularly in public space.*

**PROGRESS  
SINCE 2010**

## GUIDELINES AND RECOMMENDATIONS ON HOW TO PROVIDE WATER AND SANITATION SERVICES IN PUBLIC SPACES

**WaterAid** has developed a set of technical guidelines targeted towards local authorities and service providers for designing, constructing and maintaining institutional and public toilets (for example, in markets, train and bus stations, parks, religious sites and areas people in situations of homelessness visit). Furthermore, a guide on female-friendly public and community toilets, also developed by WaterAid, describes and illustrates the essential (and desirable) features that make public toilets female-friendly.



# CONCLUSION



During his tenure as mandate holder, the Special Rapporteur aimed to provide a thorough analysis of key themes, principles and practices that could serve as a basis for establishing an effective dialogue with multiple stakeholders on essential issues related to eliminating inequalities in access and realizing the human rights to water and sanitation. The present report, as part of the Special Rapporteur's last presentations to the Human Rights Council, illustrates ways to translate the issues covered in the thematic reports into practice, as well as envisioned gaps.

## ***THE GLASS IS HALF-EMPTY, AND IT IS ALSO HALF-FULL.***

In the report, the Special Rapporteur highlights that the realization of the human rights to water and sanitation is a continuous and permanent endeavour and that elements of those rights progress differently depending on the context. As he has often noted throughout his mandate: the glass is half-empty and it is also half-full. Similarly, the pace of the progress made in the implementation of the rights since 2010 may be slow, but the resolutions of the General Assembly and the Human Rights Council in 2010, as a starting point, triggered some initiatives and inspired several creative developments.

Despite such developments, more efforts are needed from States and non-State actors to speed up the inclusion of the most marginalized populations with regard to access to adequate water and sanitation services. The commitments related to water, sanitation and hygiene under the 2030 Agenda are a driver for leaving no one behind, but it will not suffice if States approach the targets and Goals merely as a quantitative exercise, leaving the human rights dimensions of the 2030 Agenda to the side. Also, the COVID-19 pandemic has taught the world that leaving behind the people most in need of water and sanitation services can lead to a humanitarian tragedy. In order to build just and humane societies, the human rights to water and sanitation need to be placed as a priority in all contexts over the next 10 years.

A blue arrow pointing right, with a yellow circle containing the year 2020 in the middle of the arrow.

**2020**