

Statement at the conclusion of the official visit to Lesotho by the Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Léo Heller

Maseru, 15 February 2019

As the United Nations Special Rapporteur on the human rights to safe drinking water and sanitation, I address you today at the conclusion of my official visit to Lesotho, which I undertook at the invitation of the Government from 4 to 15 February 2019.

Firstly, I would like to thank the Government of Lesotho for the invitation and particularly the Ministry of Foreign Affairs for the organization of the visit. During the visit, I met government representatives at the central and district levels, international funders, and the civil society. I visited villages, towns, schools, health clinics, a church, and correctional services in 6 districts out of 10 (districts of Mafeteng, Maseru, Mohale's Hoek, Mokhotlong, Thaba-Tseka, and Quthing). Most importantly, my heartfelt appreciation goes to the residents who opened their doors, welcomed me into their homes, and discussed their situations of water and sanitation. Finally, I would like to thank the UN Resident Coordinator's Office for the support of the visit.

At the outset, I would like to mention that this statement outlines my preliminary findings of the visit. My final and complete report will be presented to the United Nations Human Rights Council at its 42nd session in September 2019.



1. Water and sanitation and the life of a Mosotho girl

Before I present my preliminary findings, let me introduce you to *Palesa*, a Mosotho girl living in the mountainous rural area of Lesotho. *Palesa's* mother was HIV positive and had to take antiretroviral (ARV) to protect *Palesa* from mother to child transmission. *Palesa's* mother needed clean water to take the medication and for her nutrition, and as *Palesa's* father was at work, her pregnant mother had to walk long distances to fetch water and carry heavy buckets, putting the pregnancy at risk.

As a newborn, *Palesa's* parents needed water to bath her, cook for her and wash her diapers. Baby *Palesa* consumed a large share of the water used by the family, and her mother had to take on the burden of collecting additional water. At age five, *Palesa's* parents could not afford to have access to clean water and hygiene products, and *Palesa* often suffered from diarrhoea. She suffered from stunting, similar to 1/3 of the other children in Lesotho. When growing up, *Palesa* did not have a toilet at her pre-school and defecated in open where all her peers can see her nearly half-naked. When *Palesa* started primary school, she found it hard to use large toilet seats made for adults and to urinate and defecate in a closed toilet, which she was not used to at all.

Sadly, when *Palesa* was 15 years old, her parents passed away, and she was left to take care of her brother and sister and do household chores. When *Palesa* had her menstruation, she could not go to school because she could not afford to buy sanitary pads, and had to use clothes that smell and which needed to be changed regularly. It was difficult for *Palesa* to follow classes because she had no time to do her homework as she had to go and fetch water. It was hard for *Palesa* to walk on the rocky roads for long distance and *Palesa* was scared too. One of her friends who used to collect water with her cried days after a scary man did terrible things to her. Another got married and stopped coming to school.

The story of *Palesa* is based on a fictional character, but her story is not a fiction. As we can see through her story, water and sanitation are cross-cutting issues and exacerbate vulnerabilities. Many Basotho's lives are impacted when they live without or with precarious access to water, toilets facilities and hygienic products. Differently put, water and sanitation are a bottleneck for human development. And human development will never become real when the human rights to water and sanitation are ignored.



Léo Heller, UN Special Rapporteur @SRWatSan · 4 févr.

DAY 1 in #Lesotho, the Kingdom in the Sky. I am starting to discover the geography of the country that influences the pattern of Basotho's (people of Lesotho) access to #water and #sanitation and hence, their #HumanRights

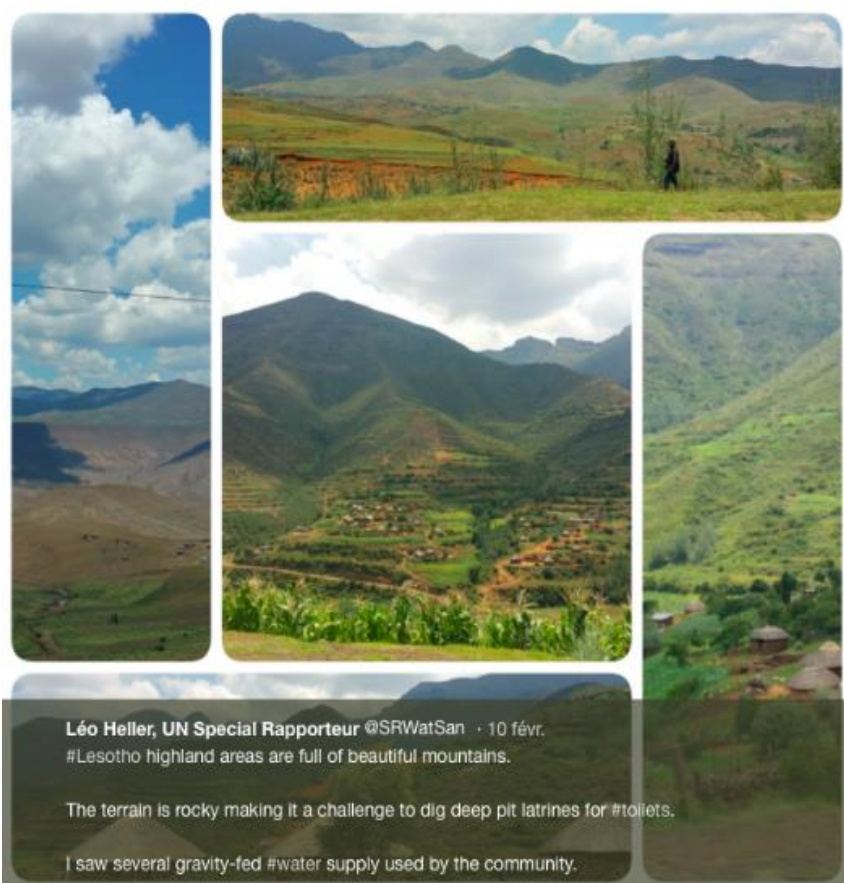
2. Water, sanitation and hygiene are prerequisites for human development in Lesotho

My findings, reached after thorough desk research and based on evidence collected from several meetings with government and other stakeholders, and interviews with groups and individuals, indicate that water, sanitation, and hygiene hold Basotho back from improving their lives, making choices on their way of living and enlarging their freedom.

A. Without prioritizing water and sanitation, human development will not take off

Ensuring access to water and sanitation is a preventive measure and a prerequisite for an adequate standard of living. In Lesotho, water, sanitation and hygiene are a driver and multiplier of vulnerability, leading to a negative impact on human development. Indeed, Lesotho's Human Development Index is estimated at 0.520 for 2017, which falls under the low human development category, positioning it at 159 out of 189 countries.¹

The fictional character, *Palesa's* mother, represents 25 per cent of Basotho who are living with HIV in Lesotho. In 2017, with a national HIV/AIDS prevalence rate of 25 per cent among adult men and women between the ages 15 to 49, the country ranked second in the world in terms of prevalence.² Clean drinking water is a crucial element for the health protection of people living with HIV/AIDS. Field studies have revealed that treatment of symptoms related to HIV/AIDS requires a significant additional amount of water and that access to water is essential for health recovery and psychosocial wellbeing.³



HIV/AIDS pandemic is one of the contributing factors of the increase in orphan-hood. As of 2016, there were 210,712 Basotho children aged 0 to 17 years who have lost either one of the

¹ Human Development Indices and Indicators: 2018 Statistical Update

² Lesotho Common Country Assessment, "Lesotho Country Analysis Working Document, Final Draft", September 2017.

³ B.N.NgwenyaD.L.Kgathi. HIV/AIDS and access to water: A case study of home-based care in Ngamiland, Botswana. *Physics and Chemistry of the Earth*, Volume 31, Issues 15–16, 2006, pg. 669-680.

biological parents or both of them by death.⁴ Orphans that are the breadwinner of the family become responsible to provide basic services, including water and sanitation, to their families.



Safe drinking water and sanitation are fundamental for the health of all Basotho population. The prevalence of diarrhoea is higher for children living in households with unimproved toilets than for children living in households with improved, not-shared toilets (13 per cent vs. 11 per cent). Similarly, the prevalence of diarrhoea is higher for children in households in which the source of drinking water is unimproved compared with those in households with an improved source of drinking water (14 per cent vs. 11 per cent).⁵ In a rural village about 20 kilometres away from Mokhotlong town, the villagers told me that several of them suffered from diarrhoea earlier this year. Further, lack of safe drinking water and sanitation, combined with the related diseases, increases the likelihood of children suffering from stunting. In Lesotho,

approximately 33 per cent of children suffer from stunting and with their immune systems not fully developed, they are often less able to respond to a water-related infection.⁶

Instead of going to school, interacting with peers, taking time to study or learn skills that eventually shape the basis of livelihood, many Basotho, particularly girls and women, spend their time walking and queuing to fetch water. In several rural villages that I visited, many explained that as a default common practice, girls do not go to school when they have their menstruation.

The living standard of Basotho paints a different picture depending on whether they live in the lowlands, foothills, highlands or the Senqu valley. In the surface area of approximately 30,000 square kilometres, about 76 per cent of the population of more than 2 million reside in the rural areas of the country while the rest are located in urban areas, mostly in the lowlands. As of 2014, the wealthiest households were concentrated in urban areas (53.8 per cent) and in the lowlands (32.1 per cent) while the lowest wealth quintile were mostly in the mountains (47.8 per cent), Senqu Valley (35.5 per cent) and the foothills (26.4 per cent).⁷

⁴ Lesotho Bureau of Statistics, "2016 Census Summary"

⁵ Lesotho Ministry of Health and ICF International, "Lesotho Demographic and Health Survey 2014", 2016

⁶ World Food Programme, Country Programme-Lesotho (2013-2017) "Standard Project Report (2016)"

⁷ Lesotho Ministry of Health and ICF International, "Lesotho Demographic and Health Survey 2014", 2016

I visited the districts of Mokhotlong and Thaba-Tseka, the two most impoverished districts in Lesotho. From individual interviews and visits to households, I could see the difference in the standard of living when compared to other wealthier districts.

Furthermore, in Lesotho, where over a million are poor, water, sanitation and hygiene lie at the centre of the poverty cycle.⁸ The World Bank estimates for 2017 suggest that 51.8 per cent of the population is still trapped under the USD1.90 poverty line. As a result of a search for jobs and better living conditions, there has been an increase in rural-urban migration, which has resulted in a significant rise in the urban population over the past 35 years, from 10.5 per cent of the total population to 23.7 per cent in 2011.

Poverty, unemployment, high inequality, a high prevalence of HIV/AIDS and orphans are some of the existing vulnerabilities of Basotho. If the status quo of the water and sanitation services in Lesotho does not improve, it will continue to be an additional layer of vulnerability to the population already in vulnerable situations and will perhaps exacerbate those dimensions of vulnerability.

B. Human rights provide an enabling framework to guarantee human development

When we flip the coin, providing access to safe drinking water and sanitation through the human rights framework can act as the enabler of human development. This enabler would provide to *Palesa* and all the Basotho people more years of school attendance, better health, more work opportunities and, most important, autonomy and emancipation. The access to safe drinking water and sanitation is a fundamental precondition for the enjoyment of several human rights, including the rights to food, education, housing, health, life, and work and it is also a crucial element to ensure gender equality and to eradicate discrimination and poverty.

The right to adequate food stipulated in article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) is interdependent with the right to water. The right to water ensures priority for the use of water resources to prevent starvation and disease and for water use in agriculture and pastoralism when necessary to prevent starvation (CESCR General Comment no. 15, para. 6). The right to the highest attainable standard of health enshrined in article 12 of the ICESCR includes access to safe drinking water and sanitation as an underlying determinant of health.

When children and women are provided with basic services, including safe drinking water and sanitation, their health, educational advancement, and overall well-being are greatly



Léo Heller, UN Special Rapporteur @SRWatSan · 7 févr.

DAY 4 in #Lesotho. I walked through a group of villages in the district of Mokhotlong. I could see the amazing landscape but only one toilet.

Traduire le Tweet



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⁸ Lesotho Common Country Assessment, "Lesotho Country Analysis Working Document, Final Draft", September 2017.

influenced. International human rights law obliges the Government of Lesotho to take all appropriate measures to eliminate discrimination against women in rural areas so that they can enjoy adequate living conditions, particularly in relation to sanitation and water supply (article 14(2) of the Convention on Elimination of Discrimination against Women). Under the Convention on the Rights of the Child (article 24), the Government of Lesotho should pursue combating disease and malnutrition through the provision of adequate nutritious food and clean drinking water. When access to water and sanitation are guaranteed, women and children are less vulnerable to the risk of harassment, threats and sexual violence faced when fetching water at some distance or using sanitation facilities outside the home.

Proper access to water and sanitation infrastructure is crucial for going to school, keeping a job, and participating in the community for all persons with disabilities. Article 28 in the Convention on the Rights of Persons with Disabilities ensures an adequate standard of living for persons with disabilities including access to clean water services.

Basotho population is entitled to enjoy their rights to water and sanitation, and the Government of Lesotho has obligations to realize those rights. Lesotho is a State party to all the international human rights treaties that I have introduced. Lesotho has also supported the human rights to water and sanitation by voting in favour of the UN General Assembly resolution that explicitly recognized the human right to water and the human right to sanitation as two explicitly but interlinked rights.

Furthermore, Lesotho is a party to the African Charter on Human and People’s Rights, African Charter on the Rights and Welfare of the Child, and the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa, which stipulate a number of rights related to the adequate standard of living and the principle of non-discrimination. The Government of Lesotho may implement its human rights obligations by appropriate means including legislative, policy and administrative framework (CESCR, General Comment no. 3, paras. 4 – 6). The fact that Lesotho’s international obligations have yet to be domesticated into national law cannot be an excuse for the lack of implementation of those obligations.

3. Human rights to water and sanitation in Lesotho

During the two-week visit, I undertook an assessment from a human rights perspective, which differs from the traditional technical assessment of water and sanitation services. My focus was not on figures, numbers and averages, how wastewater is treated, length and diameters of water pipes. My focus was on how the outcomes of those elements impact the rights of Basotho people and particularly those who are in the most vulnerable situations.



Léo Heller, UN Special Rapporteur @SRWatSan · 9 févr.

DAY 6 - I am looking at Ventilated Improved Pit (VIP) toilets in rural areas of #Lesotho from a #HumanRights rights perspective: availability, accessibility, affordability, safety, acceptability, sustainability, and privacy.

Traduire le Tweet



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My research showed that the country faces significant gaps in the safe access of the population to water and sanitation services at the household level but also in schools and in public spaces, and hence, the existence of gaps in the realization of human rights to water and sanitation. I would like to present some of these gaps in line with the normative content of the human rights to safe drinking water and sanitation, namely, availability, accessibility, sustainability, affordability, safety, privacy and dignity.

A. Are water and sanitation available?

1) How to access water during the drought?

In the highlands, Basotho rely mostly on gravity fed systems from springs in the mountains, which are connected by pipes to public stand posts for the community members to come and collect water. In the plateau and the lowlands in the west, the population use springs, boreholes, and rivers, which usually flow in deep gorges. The Government has improved water supply and sanitation in the urban and rural areas.

For instance, the construction of the Metolong Dam and associated infrastructure to supply potable water for domestic and industrial use to Maseru and the neighbouring towns of Roma, Mazenod, Morija, and Teyateyaneng began in 2008. Further, the Lesotho Lowlands Water Supply Scheme, currently in preparation, is designed to significantly improve water security for a large population in in lowlands through a blended financing composed of grants and loans.

In the past ten years, Lesotho has experienced successive climate shocks such as recurrent droughts and floods, negatively impacting communities and the livelihood of the people, access to clean water being one of the salient impacts. During my visit, we were fortunate to have several days of rain, but I could also see a reduced amount of water in rivers, streams, and springs. Particularly, when I took the road towards Quthing, I could see that some parts of the Senqu River have dried up and I could see the bottom of the river in several spots.



Léo Heller, UN Special Rapporteur @SRWatSan · 7 févr.
DAY 4 - today I am in Mokhotlong, in the mountainous highland of #Lesotho.

Together with the residents, we gathered at their water source (gravity-fed communal #water tap) and discussed how they collect water from here to drink and wash.

Traduire le Tweet



The reliance on spring water and fresh water coupled with the recurrent droughts has impacted the availability of water significantly. The lack of water availability during drought period also forced Basotho living in rural areas to opt to use unprotected sources, such as natural wells also used by animals. In some cases, both human and animals were competing for the same water source.

A village in the highlands, composed of approximately 200 households, relies on several water sources – from rainwater if there is any rain, dug wells that were almost dried up, public tap with no water at all. As a daily chore, villagers, mostly women, wake up as early as 4 in the morning to collect very unclean water.

The ladies who brought me to the well sat next to the hole and said: “This is how we sit and wait for the water to fill up. We come here sometimes from 4 a.m. until noon”. Due to lack of sufficient availability of water in the well, villagers must wait for their turn until the buckets are filled up.

Water sources scarcity means that girls and women, who are usually responsible for collecting water, have to travel a longer distance in search of water.

Reduced water flow led to prolonged waiting time at the water points, which exposed women, girls and boys to increased risk of gender based violence including assault and rape. According to a UNFPA study, the proportion of households that had to walk more than 2 km to the water sources more than doubled, from 5.8 per cent to 15.9 per cent, in the period before and during the El- Nino phenomenon in 2015-2016.⁹ The lack of access to water fuels gender-based violence particularly in rural communities and, by extension, it is connected to a chain of events including child marriages, as part of coping strategies to the drought. I wish to reiterate the concern raised by the Committee on the Rights of the Child in its concluding observation: the risk of physical and sexual violence that children, and girls, in particular, are exposed to when collecting water, bathing or using toilets at night.¹⁰

⁹ UNFPA, Baseline Study UNFPA Final Draft (2016)

¹⁰ CRC/C/LSO/CO/2, 25 June 2018, para. 30



The Government has made continuous efforts to provide basic services in the rural areas and to address inequalities between urban and rural areas. However, in the rural areas, priorities should not be set up based on a “first-come-first-served” basis. Priority setting should also not be subject to distortions, influenced by “political interests”. To be aligned with human rights, priorities should take into account elements of vulnerability. Groups in vulnerable situation must come first. The Department of Rural Water Supply could benefit from the survey that is currently in progress by the Ministry of Social Development (National Information for Social Assistance) for this purpose. **I recommend that the Department of Rural Water Supply consult the National Information for Social Assistance as a mandatory step before drawing up the list that defines villages to be prioritized in its programming.**

I also recommend that the Department of Rural Water Supply review the process of identifying water sources, taking into account projections of water availability during periods of droughts, which are increasingly more severe due to climate change. As an interim measure, it should consider providing water through alternative mechanisms during droughts, such as trucks to areas accessible and other transportation methods for hard to reach, remote areas.

Léo Heller, UN Special Rapporteur @SRWatSan · 15 févr.

I recommend [#Lesotho](#) govt to review the process of identifying water sources, taking into account projection of water availability during drought

Interim measure: consider alternative measures ie water trucks & other transportation method for remote areas bit.ly/2UYgzNU

Traduire le Tweet



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Léo Heller, UN Special Rapporteur @SRWatSan · 15 févr.

How to access [#water](#) during the drought?

Reduced water flow led to prolonged waiting time at water points, exposing women, girls&boys to increased risk of [#GBV](#)

Official visit to [#Lesotho](#) (4-15 Feb 2019)

Full statement: bit.ly/2UYgzNU

Traduire le Tweet



2) Schools are left behind

When we talk about schools, we often speak of primary and high schools, namely, educational institutions that are recognized by the Government. However, before starting primary education, children receive early childhood school education in day care centres and pre-schools, particularly when both parents are required to work. For those parents who cannot afford to pay tuition and resort to the cheapest option, it might mean a day care centre with no running water and children wearing the same diaper throughout the day. Some of the centres are not officially registered and do not operate in a regulated venue designed for its purpose. Hence, it is often the case that those unregulated day care centres are without proper access to water and toilets.

Pre-schools are also outside the government purview, and access to water and sanitation remains the responsibility of the teacher or the parents. In one pre-school I visited in Quthing, the pre-schoolers defecated in open on some bricks that seemed to indicate the location of the toilet. In the same pre-school, which was located in a village supplied with water stand posts, the teachers constructed a tippy-tap system for the pre-schoolers to wash their hands. Toilet manners are established early in the child's life and it is imperative that pre-schoolers do not build a habit of defecating open, a habit that structures the adult life.



Léo Heller, UN Special Rapporteur @SRWatSan · 6 févr.
DAY 3 - According to JMP UNICEF/WHO data, as of 2016, no schools in #Lesotho have "basic sanitation" (no toilets that are improved, usage and single-sex) and no info on access to water and hygiene.

Today I visited a primary school in a village next to the Katse Dam.

Traduire le Tweet



UN-Water, unicef Lesotho, UNICEF Water et 3 autres

Léo Heller, UN Special Rapporteur @SRWatSan · 10 févr.
DAY 6 in Tosing, district of Quthing #Lesotho.

The pre-school teacher showed me how the children use tippy tap to wash their hands with soap.

#HumanRights #EarlyChildhoodEducation

#handwash

@NECDOL @UnicefLesotho @UN_Water @wateraid @CRINwire

Traduire le Tweet



One primary school near the Katse dam area is simply a tent in the middle of the field with no water or toilets at all. Approximately 30 students use the open field to urinate and defecate and one student told me: "people laugh at me when I go in to field". In other schools in the urban areas connected to the central piped system, I observed that schools have access to water and VIP latrines. In one boarding school, girls are allowed to take bath daily but using only 1.7 litre of water per day.

The level of access to water and sanitation in educational facilities particularly in the rural area are either at par or lower than the level in the community where the facilities are located. When a rural community has access to proper water sources, the schools also benefit from those sources. However, as there is an unclear attribution of roles between the Department of Rural Water Supply of the Ministry of Water and the Ministry of Education on the specific responsibility for water supply and sanitation to rural schools, there seems to be a void space that results in poor coverage of services for those schools. **I recommend that the Department of Rural Water Supply, together with the Ministry of Education, prioritise the provision of water and toilets to all existing schools and those established in the future.**

3) Sanitation is lagging behind

When I asked residents: "which is direr?" Some said 'water' and others said 'sanitation'. Water and sanitation go hand in hand, and the rights to water and sanitation are distinct but interrelated rights. My observation is that where water and toilet provisions were adequate, hygiene was behind. Sanitation facilities include toilets and pit latrines but also include facilities meeting hygiene requirements such as availability of soaps and other hygienic products. These are requirements particularly for hand-washing, menstrual hygiene, the management of

children's faeces and the preparation and consumption of food and drink. These are crucial elements for health protection and for ensuring dignity for women and girls.

When I travelled towards the highlands, particularly in the districts of Thaba-Tseka and Mokhotlong, I could see the standard Ventilated Improved Pit (VIP) latrines next to each traditional Basotho-style huts. This is a great achievement from Lesotho's policy for sanitation since the VIP latrines are widely disseminated - some very well designed and constructed. However, next to each latrine, I did not see any places to wash hands. Washing hands only with water and washing with soap are not the same. According to JMP WHO/UNICEF, only 2 per cent of Basotho have access to basic washing hands facilities. **I urge the Government of Lesotho to include hygiene and menstrual hygiene management as part of its national policy.**

In specific institutions where access to water supply and usable toilets are adequate, many facilities lacked hygienic products. When I visited the Lesotho Correctional Service, I was surprised at the facilities, with stainless steel toilet seats and sinks with available water, both in the single and communal cells, which is highly commendable. The Female Correctional Services that I visited has not yet been refurbished with upcoming plans for renovation, which I hope will occur soon. I do hope that the situation in Correctional Services of other districts also matches the level of the Lesotho Correctional Services. What I observed during my visits to the Lesotho Correctional Services for both male and female is that the provision of soap was limited due to budgetary constraints and inmates rely on their families and charity organizations to provide soap and other hygienic products. The scenario is also the same for educational facilities, particularly schools in urban areas. Even with access to water and toilets, students have told me that they often do not have soap to use when washing their hands.



B. Are water and sanitation accessible to all?

1) Impacts of mega-projects: Lesotho Highlands Water Project



Watersheds involved in the Lesotho Highlands Water Project's dams correspond to over 40 per cent of the country's total area. As part of Phase I of the project, the Katse Dam and Mohale Dam were finalized in 1997 and 2003, respectively. During Phase I, there were long delays in implementing the project component Rural Sanitation and Village Water Supply for impacted and displaced communities. To date, there are conflicting figures about the status of water and sanitation in those villages in the area of influence of the dams, although there is a consensus that gaps persist.

It was explained to me that several villages surrounding the

Katse Dam had lost their water supply in 1995 when their natural springs dried up as a result of seismic activity that occurred during inundation of Katse Dam, a clear impact that should be attributed to this mega-project. Consequently, villagers often have to walk for more than 2 hours to access water from other villages. I was happy to hear that a case now has been settled with the provision of water to one of the villages affected. I would like to highlight that this should not be the end of the efforts by the Lesotho Highlands Development Authority but a starting point.

What I found ironic and unjust is that several villages, including the one that I visited, did not have access to water when the reservoir is just in front of their eyes. One lady told me "it is painful to see water there (pointing at the reservoir) and not here (pointing at the village)". It is like they were seeing their water, untouchable by them, reserved to be delivered to South Africa while they were thirsty. Furthermore, Katse village has an abundant supply of potable running water in the high school, health clinic and other public services, which are facilities implemented by the Project. Yet, the neighbouring village that I visited, within walking distance, has precarious access to water and uses unprotected sources. **I recommend that the Lesotho Highlands Development Authority start to consider options of abstracting water from the reservoir to provide water to the villages in need. For this, an exercise identifying and mapping the needs of the villages near the dam should be carried out.**

In 2011, Lesotho and the Republic of South Africa signed a bilateral agreement on Phase II of the Lesotho Highlands Water Project, which entails construction of Polihali Dam. With the official

launch undertaken in March 2014, the preparation for construction was in place when I visited. I could see the white signs that demarcate the level of the reservoir that the dam will create. Among the stated benefits, the project aims to create employment opportunities, establish health centres and schools, constructing road infrastructure, connecting electricity, amongst others. These should be reached without compromising the rights of others, particularly their access to water. **The Phase II of the Lesotho Highland Development Project should take into account the lessons learned from Phase I, putting all efforts in prioritizing the immediate access to water and sanitation to those living near the dams as a matter of equality and justice.**

My next thematic report to the UN General Assembly in October 2019 will focus on the impact of mega-projects on the human rights to water and sanitation, and this emblematic case will be reflected in the report.

2) *Leaving no one behind I: persons with disabilities, older persons, orphans, gender non-conforming persons*

 **Léo Heller, UN Special Rapporteur @SRWatSan** · 11 févr.
 DAY 8 - I followed an elderly lady's daily route to the [#water](#) source: 11 minutes/0.65 km (one way) in a rocky trail. She does that 3 times a day carrying the 20 liter bucket.
[#Lesotho](#) [#basotho](#)
 Traduire le Tweet



I would like to highlight that there are still many Basotho that are left behind in terms of access to water and sanitation. For persons with physical disabilities and older persons, even if there is a water source nearby, they are not able to walk the distance, particularly in the steep rocky paths in the highlands, to fetch water and carry heavy buckets of water. Further, with a physical limitation, they are not able to operate facilities such as hand pumps to draw water. In several villages I visited, I saw elderly people that had difficulties to move, some were either nearly blind or deaf. Also, orphans and people in poverty have economic limitation to access water and sanitation. While some older persons can tap into their pension to hire and pay someone to collect water for

them, orphans have limited economic means.

I saw several VIP latrines throughout my travel in Lesotho. I saw the ventilation pipe in black or white, and the structure made with bricks, metal or stones. However, I did not come across any VIP latrines designed for persons with disabilities, which requires specific design and specifications. About 2.6 per cent of the Basotho population was reported as having one form of disability, with the most prevalent type being partial blindness (0.5 per cent of all disabled persons) followed by other disabilities such as paralysed limb, amputation of foot or leg.¹¹

¹¹ Ministry of Development Planning, Bureau of Statistics, "2011 Lesotho Demographic Survey, Analytical Report Vol. 1", March 2013.

Another category of people that are left behind is gender non-conforming persons. In general, my impression is that the Basotho society views variance in sexual orientation, gender identity and gender expression as a non-existent issue and perhaps against Basotho culture. I would like to stress that people who are non-conforming in terms of sexual orientation and gender are entitled to the same rights as any other Basotho. Particularly, transgender persons should be respected with the same dignity and privacy and targeted measures should be taken to ensure their choice on the use of public toilets, without risks of being mocked or harassed, let alone be free from any assaults. I believe that the issue of gender should be on the table. It would be running away from reality if we do not discuss those issues. **I would like to respectfully suggest that Lesotho start the discussion on the issue of gender non-conforming people, particularly their access to toilets in schools and in public spaces.**

3) Leaving no one behind II: public space

During my trips to the highlands and the south, I passed through several business centres of towns where I saw numerous street vendors with makeshift shacks. I also saw many informal vendors who were selling fruits in a plastic bag on the road. One vendor that I interviewed said that he pays 2 Rands each time he uses the toilet in Shoprite. Street vendors rely on nearby public taps or make special arrangements with government facilities for water supply. Others bring water from home to sustain the day.

When I asked other residents about the situation of water and toilets from the perspective of those vendors, they confided that it was a question that has never occurred to them. The reactions of those people I spoke to are not surprising as





Léo Heller, UN Special Rapporteur @SRWatSan · 13 févr.

DAY 11 in #Lesotho. Have you ever wondered what taxi drivers and vendors at the #Maseru market do to use the #toilet? Access to public toilets cost 1 or 2 Rand.

Traduire le Tweet



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many of us do not think in the shoes of those whose workplace is the streets. In order to raise this important yet invisible issue, my next thematic report to the Human Rights Council in September 2019 will focus on the human rights to water and sanitation in spheres of life beyond the household, with an emphasis on public spaces.

The human rights to water and sanitation require that services must be physically accessible for everyone within or in the immediate vicinity of all spheres of their lives, particularly at home, but also other spaces. Governments are required to intervene in those spaces in

order to ensure water and toilets as needed. **I recommend that the Government of Lesotho, particularly at the district level, initiate efforts to create public water taps and public toilets taking into account the needs of the street vendors and other workers on the streets.**

C. Sustainability: will the Basotho people benefit from existing water and sanitation services in the future?

The VIP latrines widely disseminated in Lesotho were built in two phases, in 1998 and 2000. These latrines are now almost 20 years old and several villagers explained to me that the toilets have never been emptied nor maintained by the Government. Actually, during all my interactions with people, no single person has mentioned that they have emptied the pit. One lady showed me her VIP latrine which was full and leaking with excreta. She had to patch it with concrete so that it did not overflow. She also showed me the additional VIP latrine that she built as the initial one was full.

The geography of Lesotho adds another layer of challenge when it comes to sanitation. The mountainous areas that are hard to reach do not allow for accessibility of vehicles to the households to empty the pits. When the households are accessible by vehicles, some are not able to pay for the emptying services. Given these challenges, in some districts such as Mokhotlong the advice given to its inhabitants is to use chemicals, with doubtful effectiveness for decomposition of the excreta.

Construction of toilets should not remain the final goal. It is a half work accomplished and requires maintenance after construction, namely, emptying pit latrines and providing an environmentally adequate disposal of the sludge. It is not only enough to construct toilet but for Basotho to fully enjoy the right to sanitation, sustainability of the solution must be ensured.



Léo Heller, UN Special Rapporteur
@SRWatSan

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Ventilated Improved Pit (VIP) latrines are rarely emptied. One lady showed me her VIP latrine which was full and leaking with excreta. She had to patch it with concrete so that the excreta did not overflow.

Official visit to [#Lesotho](#)

Statement: bit.ly/2UYgzNU



I recommend that the Government of Lesotho establish a concrete programme of latrines maintenance.

Many of the rural villages that I visited once upon a time relied on public standposts that were constructed by the Department of Rural Water Supply; however, due to vandalism, lack of maintenance and also the availability of the water source, sometimes villagers no longer use community taps close to their homes. Water supply to villages seldom benefited from maintenance by public authorities. It seems that construction of water systems is the target and, once a water system is built, the eyes turn to the next community. I saw water sources dried up and pipelines vandalized, leaving communities on their own to repair facilities or to find alternative ways to supply water.

I recommend that the Government of Lesotho monitor the functionality of water services and establish maintenance of those services in rural areas. For this, budgetary and technical resources for rural water and sanitation must be substantially improved.

D. Is access affordable to all?

Affordability is a key element of the human rights to water and sanitation. When households pay an excessive amount to have access to water and sanitation services or self-supply those services, this may imply either not having any access to those services or the compromise on the access to other essential needs, such as housing, food, health or education.



Léo Heller, UN Special Rapporteur @SRWatSan · 8 févr.

DAY 5 - Experienced the lack of [#humanright](#) to water in real life. The people of Mokhotlong town and I did not have [#water](#) this morning due to pump maintenance.

Traduire le Tweet



1) Is water and sanitation affordable in urban areas?

The Water and Sewerage Company (WASCO) of Lesotho adopts a tariff scheme that charges the residential users according to 4 bands of consumption plus a fixed charge that is not applied to the first band up to 5,000 litres/month. WASCO has a separate tariff scheme for non-residential users (including schools) at a flat rate and a fixed charge. As for sewerage services, a flat rate per cubic metre is applied. Tariffs for non-residential users can be higher or lower than the residential tariff, depending on the monthly consumption. Schools and businesses are charged approximately the same amount.



Let me illustrate how Lesotho's tariff scheme applies in practice by introducing two scenarios. If one household consumes 4,000 litres of water in a month, the bill amounts to 63.00 Lesotho Loti (around USD 5.00) for both services. If another household consumes 16,000 litres – corresponding to 6 persons consuming 90 litres per capita per day – the bill reaches 400.00 Lesotho Loti (around USD 31.00). Interacting with different residents in Mhokotong, Mhale's Hoek, Mafeteng and Quthing, I learned that the monthly bill is unaffordable for some, who told me that it could represent a significant share of their incomes.

I would like to underline some concerns and observations from a human rights perspective, taking into account the importance of the financial sustainability of WASCO, but at the same time the need to reconcile this sustainability with the affordable access to services.

The increasing block tariff model, adopted in Lesotho for pricing, does not necessarily protect the poorest of the poor and the poor, which are the two lowest categories of the National Commission for Social Assistance. A lack of association between consumption and income has been demonstrated in various contexts, particularly because often poor households have a greater number of residents and in consequence require a larger amount of water. In this regard, **I urge the Ministry of Water and Lesotho Electricity and Water Authority (LEWA) to undertake an in-depth analysis of the current tariff scheme in order to ensure that access to water and sanitation services is affordable to those in a**

vulnerable situation and those in need. In this review, I encourage the Government to consider the implementation of the model of social tariffs, practiced in a number of countries. I also recommend an assessment of the connection fees and their impact on the capacity of poor households to be connected to piped systems.

Further, in future tariff revisions, **LEWA should consider adopting a cross-subsidisation from non-residential consumers, mostly from industries and commerce, to residential users, charging the former more, in order to provide affordable tariffs to the poorest.**

Another concern refers to the practice of disconnection. When a household cannot pay for water services provided by WASCO, the services are disconnected after several notices. There is an international consensus that systematic disconnection due to household inability to pay can be considered a violation of the rights to water and sanitation since it is a retrogression in the enjoyment of those rights. **I recommend that the Government of Lesotho review this practice and adopts a different procedure for those unable to pay water and sanitation tariffs for reasons beyond their control.**

2) Is water and sanitation affordable in institutions and rural areas?

Usually, schools and health centres consume a large amount of water. Schools and health centres provide basic services to the people and they cannot be seen as equivalent to commercial businesses and industries. **I recommend the Government of Lesotho to establish a special tariff for schools and health centres and ensure that disconnections due to lack of payment for those institutions do not occur.**

An additional concern related to affordability rises when the Government is not compliant with its obligation of providing services, which includes both construction and maintenance. This is very prominent for sanitation, in particular in rural areas, when the household relies on its own



resources to build or maintain latrines. Although I was very happy to observe large quantities of VIP latrines in every site that I visited, I also noticed that not always is the Government that provides them and that numerous households need to find their own way to build their latrines. Building latrines can be very expensive for some families, which can result in the practice of open defecation.

E. Are there issues related to drinking water quality?

In relation to water quality, **it is vital that Lesotho establishes its national regulation on drinking water quality**, concluding the efforts undertaken for the development of the "Draft Quality Standards and Guidelines" in 2013. Such efforts to establish the regulation should be in a way coherent with the current and future realities of water supply in the country and with consideration with the most updated scientific evidence. This regulation should also take into account collective and individual water supplies, the role of the government agents involved in the control and surveillance of drinking water quality, safety plans and provision of information to the users in a manner that is clear to them.



It is also clear that there is a room for improvement in both the control and the surveillance of drinking water quality. The routine quality control, undertaken by the Water and Sewerage Company (WASCO) and the Department of Rural Water Supply of the Ministry of Water, covers a limited number of parameters. The surveillance, undertaken by the Ministry of Health, lacks resources and staff for collecting a higher number and more representative samples and to test more parameters. In this connection, **I recommend that the Government of Lesotho aim to establish a well-equipped, well-staffed and accredited national laboratory for drinking water analyses**, which can be at the disposal of all government agents involved in water quality monitoring and surveillance.

Water supply to the population living in rural area, when exists, does not include water treatment and the residents also do not treat water at the household level. Considering the increasing degradation of water sources and the impact on water availability related to climate change, **I emphasize that water treatment in the rural areas – at the community or household level - should be part of the national agenda.**

In towns, when I interacted with the technical staff of WASCO, I could realize that there is serious obsolescence of water treatment plants, generally implemented in the 1980s. This outdated refers both to the aging of the plants and the treatment processes, that were

designed to treat a different type of water, with low turbidity, and not the water from the water resources currently affected by environmental degradation and droughts. Considering that this obsolescence can potentially impact drinking water quality and, ultimately, health, **I recommend that WASCO include in its programming the update of the water treatment plants in towns where this is required.**

Is the policy and institutional framework oriented by the human rights to water and sanitation?

In relation to national policies, Lesotho has undertaken several efforts to envision the future and to guide its policies. Plans such as Vision 2020, National Strategic Development Plans, Water and Sanitation Policy and Long-Term Water and Sanitation Strategy are some examples of positive achievements in terms of national planning. While these initiatives are commendable, there is a need to ensure cohesion and consistency throughout the different instruments and to align them with the Sustainable Development Goals. In regards to the water and sanitation sector, the SDG 6 and in particular targets 6.1 and 6.2 provide new definitions of access to services – “safely managed access” - and the target of universal access by 2030. Another necessary element that needs to be incorporated to planning is the framework of the human rights to water and sanitation, which would guide Lesotho to identify its highest priorities in water and sanitation including key issues like those most vulnerable, equality and non-discrimination and access to information.

As for the institutional structure of the Government of Lesotho relating to water and sanitation, I wish to highlight positive developments in the sector. It is not in all countries that there is a dedicated ministry for water and sanitation.



I was happy to see that the Government of Lesotho acknowledged the imperative to establish the Ministry of Water as a separate ministry in 2015.

I would also like to note the existence of the Commission of Water, in charge of performing the coordination role and convening those entities related to the water sector, among other roles. The quarterly coordination meeting is open to all ministries, civil society organization,

international funders and international organizations, which is a positive achievement. Such meetings are important to streamline and coordinate the work of all entities that contribute to the progress of water and sanitation provision so that each entity does not work in isolation but in a harmonized manner. It is also an opportunity for monitoring how goals of the several plans are being achieved and the related challenges. At the same time, I see the broad agenda of those quarterly one-day meetings, covering six items, a huge challenge. It is key that the coordination role of the Water Commission and the coordination meetings are as transparent as possible and **I recommend that the decisions of each coordination meeting be made public. I also recommend infusing the human rights framework on the discussions of the coordination meetings as a cross-cutting issue relating to all six items. Furthermore, I wish to recommend that the Commission of Water be mandated to champion the human rights to water and sanitation across the bodies of the Ministry of Water and other entities of the government of Lesotho.** This way, it will function as an oversight mechanism for all related government entities to be compliant with human rights to water and sanitation in their work.

4. Is information on water and sanitation organized in the best way to inform policies?

Information on water, sanitation and hygiene is available in Lesotho and helps to understand the whole picture of the access to those services. However, a more comprehensive understanding of the country situation is lacking. One of the main references for that is the SDGs monitoring undertaken by the JMP WHO/UNICEF. For monitoring the SDGs, particularly targets 6.1 and 6.2, there is a need to collect sufficient information to identify the share of the population using “safely managed services” and information on equality and affordability, also reflected in those targets.



Léo Heller, UN Special Rapporteur @SRWatSan · Feb 12

DAY 9 - this morning I was on #Lesotho TV.

I will provide a full preliminary findings from my official visit this Friday.

The press conference will be livestreamed at facebook.com/srwatsan at 10 am local time in Maseru.



UN-Water, unicef Lesotho and UN Lesotho

In the baseline of the SDGs, published in 2018, information on Lesotho is far from being complete. For water, information on drinking water quality and water availability is missing and, as a result, it is not possible to estimate the proportion of the population that access safely managed services. As for sanitation, there are also no estimates for this level of services, because data on management and disposal of excreta and on wastewater treatment are missing both for urban and rural areas. Data on hand washing are available but do not allow disaggregation by wealth or by districts, in order to assess and monitor inequalities. Data disaggregation is fundamental for monitoring human rights compliance and I encourage that other levels of disaggregation are applied on data related to water, sanitation and hygiene. Data breakdown according to variables and comparisons of national figures with the access in those households including orphans, people living with HIV/AIDS, LGBTI or persons with disabilities will provide insights on these levels of inequalities in access to services.

5. Concluding remarks

It was an honour to be the first UN human rights expert to undertake an official visit to Lesotho. I am part of what is known as the Special Procedures of the Human Rights Council, the largest body of independent experts in the UN Human Rights system. I hope that my colleagues who are part of the Special Procedures could visit Lesotho in the near future to contribute to the realization of all human rights of the Basotho people.

I would like to underline 2 final key messages from this official visit.

As highlighted, there are various pressing needs that are impeding Lesotho to fully realize the human rights to water and sanitation. Those needs are impacting not only Basotho's access to water and sanitation services but the different dimensions of human development in the country. Without addressing water and sanitation as a national priority it will be a long way until other social needs and other human rights are fulfilled. For this reason, **water, sanitation, and hygiene must be placed as a top priority on the national development agenda.**

Second, there are multiple needs of the water and sanitation sector, which require setting up priorities in terms of policies, budget, interventions, and practices. When we affirm that everything is equally important and should be implemented, without defining the most urgent necessities and the timeframe to achieve all of them, this can result in unfeasible and dysfunctional planning. For this, it is crucial to have operational and transparent criteria that allow the identification of the most pressing needs. **In this respect, I strongly recommend that the Government of Lesotho use the framework of the human rights to water and sanitation to inform those criteria.** Using the human rights framework, issues such as focussing on the most vulnerable, the progressive realization of the rights and equality and non-discrimination will guide Lesotho in identifying the highest priorities in the water and sanitation field. It would mean that the need for these services in formal and informal education facilities across the country, in public spaces, and in rural households gravely hit by drought will be highlighted.

Furthermore, in relation to the preparations for the establishment of the National Human Rights Commission in Lesotho, I hope the Commission is set up soon with a mandate to oversee issues of economic, social and cultural rights and undertake its watchdog function with independence and autonomy to enforce the realization of those rights.

I would like to mention that I am conducting a [follow-up analysis](#) of all my country visits undertaken. In the near future, I will take steps to initiate the follow-up analysis to examine whether Lesotho has taken to progressively realize the human rights to water and sanitation and how the recommendations of this visit are examined.

* * *

Information about the Special Rapporteur

Mr. Léo Heller (Brazil) is the Special Rapporteur on the human rights to safe drinking water and sanitation, appointed in November 2014. He is a researcher in the Oswaldo Cruz Foundation in Brazil and was previously Professor of the Department of Sanitary and Environmental Engineering at the Federal University of Minas Gerais, Brazil from 1990 to 2014. Learn

more: <http://www.ohchr.org/SRwaterandsanitation> Follow the Special Rapporteur on [Twitter](#) (@srwatsan), [Facebook](#) (facebook.com/srwatsan) and [Instagram](#) (@unswatsan)

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Information about the visit

At the central level, I met with the Ministry of Water, Ministry of Foreign Affairs, Ministry of Health, Ministry of Education, Ministry of Justice and Correction Services, Ministry of Law, Constitutional Affairs and Human Rights, Ministry of Gender, Youth, Sports and Recreation, Ministry of Social Development, Ministry of Mining, Ministry of Energy. At the district level, I met with the District Administrators of the district of Mokhotlong and Mohale's Hoek.