

Planning and vision

of the Special Rapporteur on the human rights to safe drinking water and sanitation,
Pedro Arrojo Agudo

A/HRC/48/50

Report submitted to the 48th
session of the Human Rights Council
(September 2021)

Special Rapporteur's vision and values

Introduction

Pursuant to Human Rights Council resolutions [45/8](#) and [16/2](#), the Special Rapporteur on the human rights to safe drinking water and sanitation, Pedro Arrojo Agudo, is encouraged to work on identifying challenges and obstacles to the full realization of those rights, as well as protection gaps thereto, and to continue to identify good practices and enabling factors in that regard.

In the present report, the first submitted by the current mandate holder, the Special Rapporteur presents his plan and vision for the first three years of his time as Special Rapporteur on the human rights to water and sanitation, from 2020 to 2023.

Special Rapporteur's vision and values

- Former Special Rapporteurs on the human rights to water and sanitation (2008 - 2020)
- Special Rapporteur's vision: a socio-environmental approach to the human rights to water and sanitation
- Functions and values of water: ethical reflections on water management priorities

Current state of play: the Special Rapporteur's reflections

- The Global Water Crisis and reflections on water scarcity
- Two major structural flaws
- Three factors that are deepening the global water crisis

Special Rapporteur's first three years

- Three key objectives
- Specific plans (2020-2023)

Former Special Rapporteurs

Catarina de Albuquerque, 2008-2014



The first mandate-holder focused her mandate on compiling good practices and providing guidance on how to implement the human rights to water and sanitation. She developed a handbook which clarifies on one hand, the content and entitlement of the human rights to water and sanitation and on the other, steps to realize these rights.

Léo Heller, 2014-2020



The second mandate-holder 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. The outcomes of his efforts include 12 thematic reports, which highlight the human rights-based approach to various issues relating to access to water and sanitation.

Special Rapporteur's vision:

Socio-environmental approach to the human rights to water and sanitation



Pedro Arrojo Agudo, 2020 -

In the view of the Special Rapporteur there is still a long way to go in terms of the effective implementation of the human rights to water and sanitation, from the desirable constitutional recognition of the human rights to water and sanitation to budgetary commitments, to legislation on water that promotes accountability and both a sustainable and a human rights-based approach to water management. The Special Rapporteur will employ a **socio-environmental approach** to the human rights to water and sanitation throughout his mandate:

Developing an ecosystem approach that requires integrated management of the different uses and functions of water

Clarifying steps to democratic governance in all contexts, including urban, rural, indigenous peoples, and more



For me, water is a common good that has a public character owing to its essential functions for ecosystems and social well-being in today's complex society. Therefore, the State must ensure that water continues to fulfil those functions under democratic and participatory management. From that approach, the Special Rapporteur echoes the statement made by the Committee on Economic, Social and Cultural Rights in its general comment No. 15 (2002), that water is a public good fundamental for life and health (para. 1).

Functions and values of water:

Ethical reflections on water management priorities

If one tries to compare the value of the water used to fill a swimming pool with the value of the water needed to satisfy the vital minimum that any human being needs in order to live a dignified life, as a human right, one will quickly come to the conclusion that those values are not even comparable, simply because they are in different ethical ranges. The Special Rapporteur proposes the following ethical categories and priorities which should be at the center of discussion and consideration when States implement the legal and regulatory framework to ensure the human rights to water and sanitation.

Water for Life, as the minimum amount to

- guarantee the *drinking water and sanitation services* necessary for a dignified life, as human rights;
- the water to produce the food that communities in vulnerable situations need, linked to the human right to food;
- the flows and the water quality necessary to guarantee the sustainability of aquatic ecosystems (ecological flow regime), linked to what the Special Rapporteur believes should be recognised as the human right to a healthy environment;
- as well as the rights of indigenous peoples over their waters and territories under the integrative approach of ancestral worldviews.



Water for uses of public interest, at a second level of priority, in functions, services and activities that are of general interest to society; uses that are generally not valued or are undervalued by the market, for example, the preservation of the few remaining wild rivers in good condition, as a natural heritage for future generations.

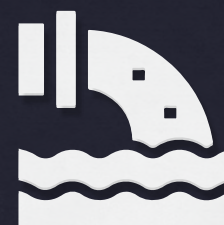


Water for economic development in productive activities that generate economic benefits but are not strictly necessary to sustain human life or satisfy human rights.

Water use in these activities, which in fact account for 80-90 per cent of demands (mainly agricultural and industrial) and generate the main pollution risks, must be managed at a third level of priority, ensuring full cost recovery on the basis of the benefits generated.



Water uses that threaten life, in economic activities that undermine public health of present or even future generations and environmental sustainability through toxic contamination, for example, as is often the case with open-pit mining or fracking; activities that are illegitimate and should be outlawed and prohibited.



Democratic water and sanitation governance

The democratic governance of drinking water and sanitation services, and of water in general, that the Special Rapporteur promotes must ensure environmental sustainability and adopt existing international standards on the human rights to water and sanitation, including, the normative contents of those rights identified in the [CESCR General Comment No. 15](#). Within this set of standards, the Special Rapporteur believes it is important to highlight the following principles:

Participation: everyone has the right to participate in decision-making, policy development, planning and management related to water and sanitation services and facilities, to the extent that their human rights may be affected.

Accountability: the institutions or entities responsible for water and sanitation management and services, including service operators, must regularly make available information and reports to the public in a clear, easily accessible and transparent manner.

Non-discrimination and equality: no one should be discriminated when accessing water and sanitation. The effective enjoyment of these human rights must be accessible and adapted to the needs of all, with special due considerations being given to the needs and requirements of population in vulnerable situations.

Empowerment: people and communities must be enabled to understand their rights of participation both in the drafting of laws and regulations and in the management of drinking water and sanitation services, providing them with the means for such participation to be effective.

Legal protection: national laws should effectively guarantee the fulfilment of human rights to water and sanitation and that these rights are justiciable in compliance with the international human rights standards, and provide for adequate redress, remedy, reparations and compensation in case of violations.

Sustainability: water and sanitation services must be of quality, available and accessible to everyone on a permanent basis, without discrimination, both for present and future generations, achieving lasting solutions, so that the provision of services today does not compromise human rights in the future. For this, an adequate awareness and education that develops intergenerational responsibility is necessary.

Democratic governance of water in general and of water and sanitation services in particular needs a regulatory framework that guarantees the sustainability of the natural water cycle and allows for the integration of the management of water for life, water for uses and services of public interest and water for economic, uses under an order of priorities that must be guided by international human rights obligations.

In my view, compartmentalizing management and legislation by reserving a marginal corner for human rights is not appropriate. An integrated approach to the various uses and functions of water, in which human rights are at the core and provide the basic principles and criteria for such integrated management and legislation, should be promoted. The governance of aquatic ecosystems and water and sanitation services is a democratic challenge that requires active and jointly responsible participation by the public. In that context, water management for productive activities requires institutions and economic tools that encourage responsible and efficient use of water as a public good, but from the logic of the common good and giving priority to guaranteeing the human rights at stake and promoting the principles of transparency and participation.



Current state of play: Reflections by the Special Rapporteur

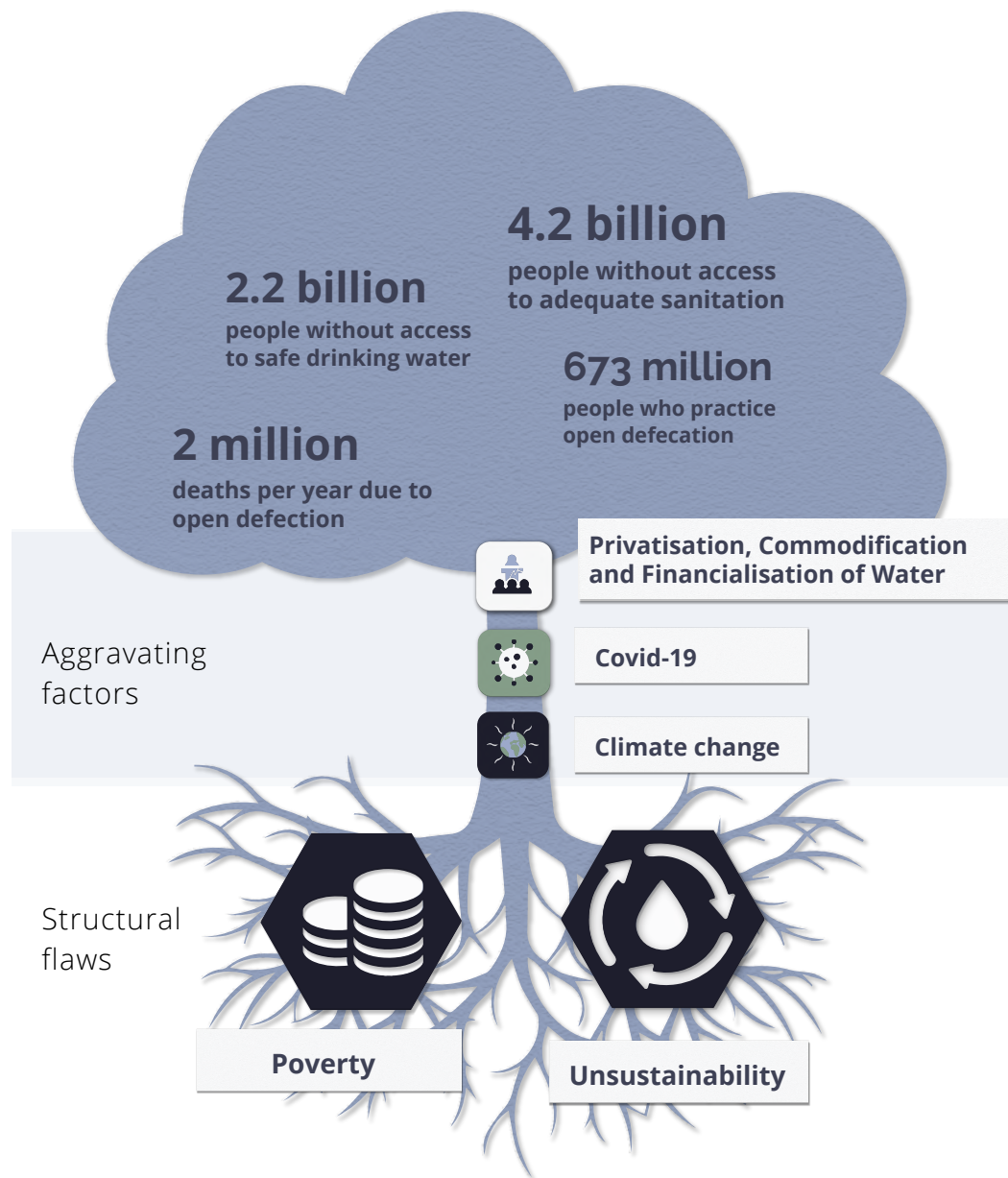
The global water crisis

The global water crisis is rooted in two major critical flaws:

- the flaw of unsustainability of aquatic ecosystems; we have transformed water, the key to life, into a terrible vector of disease and death.
- the flaw of inequity, marginalisation and poverty.

Three further factors aggravate the crisis:

- the pressures of privatisation, commodification and financialisation that degrade the democratic governance of water;
- the COVID 19 pandemic;
- ongoing climate change.



In my opinion, it is simplistic to argue that freshwater scarcity is at the heart of the global water crisis. This type of diagnosis exists and often leads, on the one hand, to proposing new hydraulic megaprojects and intensifying the exploitation of rivers and aquifers, which would put additional and increased pressures on the ecosystems and accelerate their unsustainability crisis; and on the other hand, to justifying the treatment of water as a simple, useful and scarce economic good. My report does not aim to analyse water scarcity problems in general, but tries to identify the causes of the Global Water Crisis from the perspective of the human rights at stake.



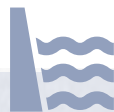
Reflections on the two major structural flaws

The flaw of inequality, discrimination and poverty

Poverty is complex and must be understood not only as a lack of income. It is closely linked to a lack of education, water and sanitation, health, housing, energy, work and opportunities for a dignified life, as well as to marginalisation and inequality arising from unequal power relations. In particular, attention and efforts need to be paid to sanitation (not just the human right to water), including menstrual hygiene for women and girls, issues that are often kept in the shadows and which are key in the fight against poverty.



In urban settings, networks often do not reach where the poorest families live. Despite having negligible incomes, they end up buying the water they need to live from vendors, with no guarantee of drinkability, and paying much more than the neighbourhoods reached by the supply network.



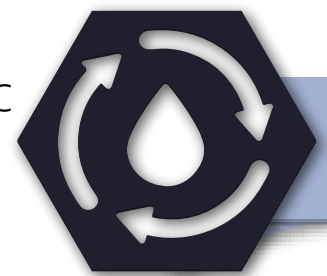
Indigenous peoples or peasants are often discriminated against and victims of large extractive projects or large dams that destroy or degrade aquatic ecosystems and territories, plunging communities that until then had lived in dignity, albeit with little income, into poverty and destitution.



One of the benchmarks of poverty is water poverty that arises in the form of water cuts to families in poverty due to non-payment, which should be considered as the violation of their human rights to water and sanitation.

The flaw of unsustainability in our aquatic ecosystems

The health of people, especially those living in poverty, is closely related to the health and ecological status of the rivers or aquifers from which they receive water, and therefore the health of these ecosystems has an impact on the enjoyment of human rights to water and sanitation. Beyond its intrinsic value, biodiversity is the best indicator of the health and functionality of these ecosystems that provide us purification and natural regulation, on which the drinking water of communities depends.



80 per cent of global wastewater goes untreated, containing everything from human waste to highly toxic discharges.



The abusive exploitation of many aquifers not only ruins the base flows of wetlands and rivers, but also the storage capacities and natural regulation of the water cycle.



Massive deforestation and the expansion of agriculture favours erosion processes, increases runoff, and reduces infiltration in the aquifers that regulate river flows.

Reflection on three factors deepening the Global Water Crisis

Climate change, risks and impacts



Issues with the human rights to water and sanitation caused by climate change stem from the accelerated changes in rainfall patterns in each territory and the increase in plant evapotranspiration due to higher temperatures, with a consequent reduction in available flows. These changes can be summarised as follows:



Fast changes in **precipitation patterns** mainly affects the state and functioning of aquatic ecosystems that cannot adapt quickly enough, which can lead to collapses affecting the quality and quantity of drinking water supply;



Where aquatic ecosystems are currently subjected to abusive levels of exploitation, **river flows** and the natural replenishment of underground aquifers by **infiltration** will tend to drastically decrease;



Soil erosion will accelerate surface runoff and **flood risk** will increase, while infiltration into aquifers will be reduced, **sediment flow** and **clogging of reservoirs** will accelerate;



Deforestation in humid areas, such as the Amazon, impoverishes soils and **promotes soil erosion**, while causing **rainfall recession** over large areas;



In coastal areas, the **risks of flooding** can multiply when river flooding is combined with storms, tidal surges and rising sea levels, which also gradually **salinise coastal aquifers** on which affordable drinking water for the poorest people depends;



Agricultural and livestock ruin in impoverished rural areas and especially in arid and semi-arid zones strongly affected by climate change will generate **massive migrations**, estimated in the order of 200 million people by 2050.

The COVID-19 pandemic, risks and impacts



The COVID-19 pandemic has highlighted the role of adequate hygiene with soap and water to prevent infection. This has led many governments to ban cuts of service for non-payment, as an emergency measure in the face of the pandemic. On the other hand, general consensus is growing on the need to strengthen public health systems, as non-profit public efforts that seek to protect the health of all those left behind. Beyond this positive shift in public awareness, the pandemic is deepening and expanding inequality and poverty which, let us not forget, is the first structural flaw causing the global water crisis, by affecting more intensely those who live in the worst conditions of habitability and hygiene. Once again, with regard to public health risks, we need to integrate environmental and social factors, with the consequent need to integrate social resilience and environmental resilience.

Privatisation, Commodification and Financialisation of Water



Over the last few decades, the neoliberal vision has been proposing that water be considered as a commodity to be managed under the logic of the free market, transforming people into customers. Under this approach, privatised management of water and sanitation services has been promoted and water markets have been created, leading to an increasing private appropriation of water, de facto, by those holding concessions for its use, marginalising the sustainability of ecosystems, the rights of the most impoverished and in particular their human rights. Considering water as an economic good and managing water purely according to market logic makes those living in poverty more vulnerable, jeopardises their human rights to safe drinking water and sanitation and undermines the sustainability of ecosystems.

The Special Rapporteur's first three years

Three key objectives

Democratic water and sanitation governance



Integrating the management of the multiple uses and functions of water, as a public good – or as a commons where community-based approach to water and sanitation management is alive and well- and under the aforementioned priorities, is a complex challenge that goes beyond the capacities of the market. Democratic water and sanitation governance must enable us to address climate change and pandemic within the framework of this global water crisis, strengthening environmental and social resilience, activating the gender perspective and paying special attention to those living in extreme poverty.

Advancing the realization of the human rights to safe drinking water and sanitation, restoring the sustainability of aquatic ecosystems



Only by making decisive progress in restoring the health of our aquatic ecosystems can we achieve the fulfilment of the human rights to safe drinking water and sanitation of people living in poverty, and on the other hand, only by making decisive progress in sanitation and cleaning up discharges will we be able to restore the health of aquatic ecosystems. This second objective of the mandate therefore focuses on clarifying this link between these human rights and the sustainability of our aquatic ecosystems and on promoting strategies that link the two challenges.

Promote water as a key to collaboration and peace



In many cases, local conflicts caused by large-scale projects, generally of an extractive nature, which destroy or seriously affect the ecosystems and territories on which the communities living there depend, violating their human rights. Water offers reasons and arguments for agreement and collaboration, if an ecosystem approach is taken. If it is a matter of managing a river or a river basin in all its richness and complexity, rather than competing for water as a resource, the need for collaboration will emerge. Of course, the benefits and efforts to be made upstream and downstream are often not symmetrical, and dialogue and negotiation are therefore necessary. But in the end, collaboration leads to benefits for all.

Specific Plans



Scheduled thematic reports

Human Rights Council



The Global Water Crisis on Planet Water, the Blue Planet - Diagnosis and Work Plan

2021



The human rights to safe drinking water and sanitation of indigenous peoples: state of affairs and lessons from ancestral cultures

2022



Fulfilling the human rights of those living in poverty and restoring the health of aquatic ecosystems: two converging challenges

2023

General Assembly



Risks and impacts on human rights to drinking water and sanitation derived from the commodification and financialization of water



The human rights to safe drinking water and sanitation of people in impoverished rural areas



Water as an argument for peace, twinning and cooperation



Building bridges of permanent dialogue

The people who suffer directly from the problems may not be right in everything they say, but they are certainly the ones who know best the problems they suffer from. This is why dialogue with defenders of the human rights to safe drinking water and sanitation has been active since the first day of the mandate.

Through the "Open Channel of Dialogue" the Special Rapporteur makes himself available each week to anyone who wishes to discuss with him. Through quarterly meetings, the Special Rapporteur plans to organise bridges of permanent dialogue with networks working on water and sanitation, with a work agenda proposed by the social actors.

OPEN CHANNEL OF DIALOGUE
with the Special Rapporteur on the human rights to water and sanitation,
Pedro Arrojo-Agudo

Wednesdays
10.30 am or 4.30 pm CET

Register for the online bilateral meeting



Country visits

The two official country visits that must be carried out each year, once the restrictions imposed by the pandemic are overcome, are designed based on the following criteria:

- priority to impoverished countries and regions;
- priority to countries and regions in conflict; and
- balance between the various continents and regions.

Beyond these territorial criteria, the priority lines will be:

- Working with water as an argument for peace;
- Empowering women as promoters of human rights to drinking water and sanitation; and
- Listening to those who suffer from problems.



Communications and other letters

In 2020, the Special Rapporteur launched a project entitled “Prohibition of water disconnection: from a social shield to safeguarding human rights”, which maps the situation of each country in relation to water disconnections and measures to prohibit them. Beyond activating that social shield, which is so necessary and urgent to address COVID-19, the Special Rapporteur is convinced that it is essential to transform the urgent need posed by the pandemic into a permanent virtue, ensuring the human rights to water and sanitation at all times and under all circumstances, whether there is a pandemic or not.

The Special Rapporteur has mapped the situations in the Latin America and the Caribbean during his first six months as mandate holder. Going forward, he will analyse and map the situation of water disconnections in other regions.



Cooperation with international and regional organisations

In order to better understand the roles and responsibilities of international and regional organizations in the area of water, sanitation and hygiene services, between January and April 2021, the Special Rapporteur convened bilateral meetings that have opened up various lines of cooperation.

He wants to pay special attention to UN-Water, multiplying interviews with its members from the beginning of his mandate, as he considers it essential to enhance the global leadership of UN-Water in the face of the world water crisis and efforts to achieve Sustainable Development Goal 6 and other water-related Sustainable Development Goals, as indeed the leadership of the World Health Organization must also be strengthened in the face of the COVID-19 pandemic and future risks to global public health.



**UN Special Rapporteur on the human rights to
safe drinking water and sanitation**

Pedro Arrojo-Agudo



srwatsan@ohchr.org



@srwatsan



Facebook.com/srwatsan