

**Human Rights Council****Forty-fifth session**

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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development****Progress towards the realization of the human rights to water
and sanitation (2010–2020)****Report of the Special Rapporteur on the human rights to safe drinking
water and sanitation****Summary*

A decade has passed since water and sanitation have been explicitly recognized as a human right, yet the specifics of how to implement them still require further clarification and understanding. In order to clarify ways to implement the human rights to water and sanitation, the Special Rapporteur on the human rights to safe drinking water and sanitation, Léo Heller, illustrates the progress made in realizing those rights since 2010. The progress identified is dissected through a three-dimensional framework – human rights as a driver, human rights as a policy tool and human rights as a people-centric approach – that reflects the thematic reports produced during the Special Rapporteur’s tenure.

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter’s control.



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I. Introduction

1. 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, including through social media and with the use of accessible materials, 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.

2. 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, focused on the progressive realization of the human rights to water and sanitation,¹ 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. Also related to those two reports are the Special Rapporteur's seven follow-up reports related to his country visits (four presented to the Human Rights Council at its forty-second session² and three presented at its forty-fifth session³), which provide specific examples of progress made in the countries concerned, assessed according to a set of categories he has established: good progress, progress ongoing, limited progress, progress not started and retrogression.

3. 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.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. The progress is analysed through a three-dimensional framework: human rights as a driver (see section III, on development cooperation and megaprojects), human rights as a policy tool (see section IV, on different levels of services, affordability, service regulation and accountability), and human rights as a people-centric approach (see section V, on gender, forcibly displaced persons and public spaces). The present report does not reflect the last two thematic reports by the Special Rapporteur, on progressive realization of the human rights to water and sanitation,⁵ submitted concurrently with the present report, and on privatization, which will be submitted to the General Assembly at its seventy-fifth session.

4. In preparation for the report, the Special Rapporteur put out a call for inputs; he received 21 submissions within the deadline.⁶ 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.

¹ A/HRC/45/10.

² A/HRC/42/47/Add.3–6.

³ A/HRC/45/10/Add.1–3.

⁴ A/HRC/30/39/Add.1, para. 4.

⁵ A/HRC/45/10.

⁶ See www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/GoodPractices2020.aspx.

II. Background

A. Recognition of the human rights to water and sanitation

5. 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. In the International Covenant on Economic, Social and Cultural Rights the rights to water and sanitation were not explicitly recognized as human rights. However, in 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. The International Covenant on Civil and Political Rights also does not explicitly mention the human rights to water and sanitation. However, its monitoring body, the Human Rights Committee, clarified that the duty to protect life also implied that States parties should take appropriate measures to address the general conditions in society that might give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity.⁷ The Committee also noted that the measures called for to address adequate conditions for protecting the right to life included essential goods and services such as water.⁸

6. Further, the adoption of the General Assembly resolution 64/292 signifies an important step as the first international instrument that recognized the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights. 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. Five years later, the 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.

7. The present report is aimed at highlighting specific cases of how certain aspects of those rights have been implemented in practice since the General Assembly and the Human Rights Council explicitly recognized safe drinking water and sanitation as a human right in 2010. The underlying background is that the realization of the human rights to water and sanitation is progressive. It would be simplistic to categorize an example as a “good practice”, since all practices have room to improve and to go even further to progressively realize the human rights to water and sanitation.

B. Celebrating 10 years of the human rights to water and sanitation

8. 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.⁹ He made available friendly versions of his thematic reports and the findings of the reports in the form of shareable media, blog posts, quizzes, videos, children’s stories and online challenges, among other forms. The year-long campaign is in line with the initial vision laid out by the Special Rapporteur; in 2015, the Special Rapporteur indicated, in his first report, his intention to establish communications tools and strategies aimed at reaching those who were most in need and at raising awareness of the human rights to water and sanitation.¹⁰

⁷ General comment No. 36 (2018) on the right to life, para. 26.

⁸ Ibid.

⁹ See www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/10Anniversary.aspx.

¹⁰ A/HRC/30/39/Add.1, para. 12.

9. 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.

III. Human rights as a driver

10. 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.

A. Development cooperation

1. Special Rapporteur's reports focused on development cooperation¹¹

11. In international cooperation and assistance, States, United Nations agencies, international development partners and funder agencies are important actors that support States in realizing the human rights to water and sanitation. In the past decade, development cooperation in the water and sanitation sector has gained more attention internationally. With the adoption of the 2030 Agenda for Sustainable Development in 2015, development cooperation has been explicitly considered as a means of implementation for targets 6.1 and 6.2 of the Sustainable Development Goals, on water and sanitation. This increased attention is reflected in trends in aid commitments: during the 2010–2018 period, disbursements from States and multilateral organizations increased from \$7.4 billion to \$9.8 billion.¹² This increase in water and sanitation commitments has slightly shifted the proportion of development cooperation allocated to water and sanitation with respect to other development priorities, from 4.6 per cent in 2010 to 4.8 per cent in 2018.

12. At the outset of his term, the Special Rapporteur noted his plan to reinforce the need to incorporate the content and principles of the rights to water and sanitation into State policies and programmes and to facilitate opportunities for United Nations agencies, international development partners and donor agencies to coordinate with States, service providers and civil society in the common goal of eliminating inequalities and realizing the human rights to water and sanitation for all.¹³ The Special Rapporteur further 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.

13. In the reports, the Special Rapporteur uses the term “development cooperation” to highlight the relevance of both components: “development” as the purpose of this kind of

¹¹ A/71/302 and A/72/127.

¹² Data from the Creditor Reporting System of the Organization for Economic Cooperation and Development. Available at <http://stats.oecd.org/Index.aspx?QueryId=58195>.

¹³ A/HRC/30/39/Add.1, para. 10.

support to interested States and “cooperation” denoting a horizontal relationship between funders and recipient States. Conventionally, development cooperation includes actions such as grants, loans, debt forgiveness, technical and programming support and policy advice to recipient States. The term “funder” is used instead of “donor” or other terminology to highlight that entities operate mainly through loans and not donations. The term “partner State” is used instead of “recipient country”; this is intended to support a more horizontal relationship between the funder and the State receiving support.

14. In his first report on development cooperation,¹⁴ 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,¹⁵ examined how funders contributed to the realization of the human rights to water and sanitation, through an empirical analysis of six case studies. The studies involved six funders: France, Japan, the European Union, the World Bank, the Inter-American Development Bank and the United Nations Children’s Fund (UNICEF).¹⁶ After examining six different funders’ policies, operational tools and projects, through the cycle of development cooperation, the Special Rapporteur found that the human rights framework was not adequately incorporated in the development agendas of those funders, which varied in terms of the extent of their alignment to the framework. While some funders considered the human rights framework, particularly the human rights to water and sanitation, in their policies, other policies were only sporadically aligned with those rights and revealed varying degrees of clarity regarding their application to development cooperation. Similarly, while most funders’ project assessments were mostly focused on attainment of project objectives and sustainability of services, a specific human rights-based assessment during and upon completion of projects was not observed.

2. Progress since 2010

15. 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.

16. Efforts have been made to decrease the disparities between water and sanitation projects in rural areas and those in urban areas, particularly by implementing specific projects targeting rural 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.¹⁷ The programme applies different strategies depending on the number of inhabitants: in rural communities with fewer than 2,500 inhabitants, the aim is to improve service delivery by consolidating the community management of water and sanitation infrastructure; in larger communities, the focus is on enhancing the operative and financial sustainability. 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.¹⁸ 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.

¹⁴ A/71/302.

¹⁵ A/72/127.

¹⁶ The selection took into consideration the types and regional balance of funders and their activities, and the role of funders as important contributors to worldwide funding for water and sanitation through development cooperation.

¹⁷ Submission from Mexico.

¹⁸ Submission from Finland.

17. In addition to targeting rural areas, some programmes are designed to pay attention to identifying unserved populations and those 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.¹⁹ These populations in vulnerable situations are identified through a feasibility study based on economic and social indicators.

18. Aid organizations have also taken steps to align their 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.²⁰ It implements this strategy by, among other initiatives, supporting partner States in developing capacity on equality and inclusion, and by engaging with local governments in addressing the systemic challenges in providing water and sanitation services for all.

B. Megaprojects

1. Special Rapporteur's report on megaprojects²¹

19. Since 2010, there has been renewed interest in megaprojects worldwide.²² According to one study, we have entered the “teraprojects” era, with estimated spending of \$6 trillion to \$9 trillion annually, or 8 per cent of total global gross domestic product, as at 2014.²³ Furthermore, according to one study on future hydropower reservoirs and dams, at least 3,700 major dams were either planned or under construction in 2014, primarily in countries with emerging economies.²⁴ This boom in megaprojects has been accompanied by a mobilization of private sector investment. Between 2010 and 2019, there were nearly 4,200 projects with private participation, amounting to a total investment of \$1.1 trillion.²⁵

20. 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 Special Rapporteur witnessed those two sides of the 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.²⁶ 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.²⁷ In his thematic report on megaprojects, the Special Rapporteur specifically focused on projects that potentially caused significant impacts on the human rights to water and sanitation and that implicated either an extensive use of land, significant modification of water resources or a long implementation period.

21. 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

¹⁹ Submission from Costa Rica.

²⁰ Submission from WaterAid.

²¹ A/74/197.

²² Seth Schindler, Simin Fadaee and Dan Brockington, “Contemporary megaprojects: an introduction”, *Environment and Society: Advances in Research*, vol. 10, No. 1 (2019); Bent Flyvbjerg, “What you should know about megaprojects, and why: an overview”, *Project Management Journal*, vol. 45, No. 2 (2014).

²³ Flyvbjerg, “What you should know about megaprojects”.

²⁴ Christiane Zarfl and others, “A global boom in hydropower dam construction”, *Aquatic Sciences*, vol. 77, No. 1 (October 2014).

²⁵ Data from the World Bank's private participation infrastructure database. Available at <https://ppi.worldbank.org/en/visualization#sector=Water+and+sewerage>.

²⁶ See the collection of information extracted from the letters of allegations and other communication letters sent by the Special Rapporteur at www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/Extractlettersallegations.aspx.

²⁷ See the collection of information extracted from the Special Rapporteur's official country visits at www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/countryvisitsextract.aspx.

vulnerable situations, particularly indigenous peoples, and human rights defenders advocating the rights of those affected by megaprojects. 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. The stages of megaprojects include: macro-planning, licensing or approval, planning and design, construction, short-term operation, long-term operation, and decommissioning and disaster management.

2. Progress since 2010

22. 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. While there is no information on how these national policies have been implemented for a specific megaproject, a few examples that can be considered in the direction of progress were provided. 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.²⁸ 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.

23. Another area of ongoing progress is related to actions taken to establish preventive and compensation measures in the event of a disaster affecting the enjoyment of the human rights to water and sanitation. In Costa Rica, the metropolitan aqueduct supply programme includes a strategy to inform affected communities about the preventive, mitigation and compensation measures in place.²⁹ 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.

IV. Human rights in policies

24. 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.

A. Different levels and types of services

1. Special Rapporteur's report on assessing different levels and types of service³⁰

25. 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

²⁸ Submission from Mexico.

²⁹ Submission from Costa Rica.

³⁰ A/70/203.

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. These types, in conjunction with different management models, such as utilities, small-scale service providers or self-supply, result in several combinations of service. 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. Every measure that is aimed at ensuring access to water, sanitation and appropriate hygiene practices is implemented in a variety of contexts that strongly influence how human rights can be realized, including geophysical, political and economic contexts, and sociocultural preferences.

2. Progress since 2010

26. Since the adoption of the Sustainable Development Goals, to visualize trends in service levels, the World Health Organization (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.³¹ According to these new ladders, the Joint Monitoring Programme estimated that, in 2010, 86 per cent and 66 per cent of the global population had access to at least basic drinking water, and sanitation services, respectively.³² Since then, data collected by the Joint Monitoring Programme reveals an upward trend in access to at least basic services, especially in Asia and the Pacific. 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.³³ 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. While access to at least basic (and piped) services has improved, such progress should be examined in the context of how services are delivered. 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.³⁴

27. While piped water and sewerage are often emphasized as the best type and level of services, the Special Rapporteur highlights that other types and levels of services, combined with a suitable management model, can comply with standards for realizing the human rights to water and sanitation. He has thus identified progress made in realizing the human rights to water and sanitation on the basis of the measures taken to identify and assess appropriate services and management models, taking into account the specific context of

³¹ See WHO and UNICEF, “JMP methodology: 2017 update & SDG baselines”.

³² See <https://washdata.org/data/household#!/>. In the Joint Monitoring Programme classification, basic drinking water services are those using an improved source (i.e., designed to deliver safe water), requiring less than 30 minutes in total for collection. For sanitation, basic services are those using improved facilities (i.e., designed to hygienically separate excreta from human contact) that are not shared with other households.

³³ Data extracted from <https://washdata.org/data/household#!/>.

³⁴ See Neil S. Grigg, “Service levels for the four billion people with piped water on premises”, *Water International* vol. 43, No. 4 (2018), pp. 531–547; Sridhar Vedachalam and others, “Underreporting of high-risk water and sanitation practices undermines progress on global targets”, *PLoS One*, vol. 12, No. 5; and Emily Kumpel and Kara L. Nelson, “Intermittent water supply: prevalence, practice and microbial water quality”, *Environmental Science & Technology*, vol. 50, No. 2, pp. 542–553.

the country and the extent to which those models are in compliance with the human rights standards and principles.

28. The submissions received indicate that in several States water and sanitation services are provided through a mix of solutions, depending on the specific context and characteristics of the communities served, for example, connection to piped networks in densely populated areas, and shared or on-site facilities in dispersed populations. Some States referenced the human rights framework for water, sanitation and hygiene services as a way to identify appropriate types of services and management models. For example, in Costa Rica, the national policy on drinking water for 2017–2030 recognizes the need of providing users with an optimal service, in terms of quality, quantity, continuity, reliability, equality, universality of access, efficiency and sustainability, with a human rights-based approach, regardless of the type of service and management model used.³⁵ In the country's 2015 policy on the organization and strengthening of community management of drinking water and sanitation services, which sets guidelines for the organization and strengthening of community-run service providers, the full enjoyment of the human rights to water and sanitation is one of the three cross-cutting principles, together with sustainability and women's participation in community management. The Government of the Plurinational State of Bolivia noted that data should reflect not only the type of access, but the level of the services that people access. For instance, indicators are used to measure progress in terms of accessibility (do people have access to water and sanitation services that are close to their households and safe?) and acceptability (are water and sanitation services appropriate to the needs and cultural characteristics of the people using them?), as well as other overarching human rights principles, such as non-discrimination and participation.³⁶

29. Other examples highlight where the management model for service provision has been adopted 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.³⁷

30. Guidelines exist 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.³⁸

B. Affordability

1. Special Rapporteur's report on affordability³⁹

31. Affordability, as a human rights criterion, requires that the use of water, sanitation and hygiene facilities and services are accessible at a price that is affordable to all. Since 2010, much work has been done in terms of measuring the affordability of water and sanitation services. Several researchers have proposed methods for assessing affordability, including by defining a minimum basket of services and by analysing the share of a household's expenditures for fulfilling basic needs.⁴⁰ Among the gaps in studies that existed

³⁵ Submission from Costa Rica.

³⁶ Submission from the Plurinational State of Bolivia.

³⁷ Submission from the Red Nacional de Acueductos Comunitarios de Colombia.

³⁸ Submission from WaterAid.

³⁹ A/HRC/30/39.

⁴⁰ Luis Andres and others, "Measuring the affordability of water supply, sanitation, and hygiene services: a new approach", *Water Economics and Policy* (2020); Ahmad Komarulzaman, Eelke de Jong and Jeroen Smits, "Hidden water affordability problems revealed in developing countries", *Journal of*

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.

32. In the report on accessibility, 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. The affordability of water and sanitation services is highly contextual, and States should therefore determine affordability standards at the national and/or local levels. The human rights framework stipulates important parameters for the process of doing so, in particular in terms of participation. To ensure affordability for all and a sustainable system, States must develop appropriate pricing, tariff and subsidy structures. Mechanisms to ensure affordability in practice include public finance, targeted measures, social protection floors, tariff schemes and subsidies. 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.

2. Progress since 2010

33. 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. The submissions received illustrated several measures States have implemented to ensure the affordability of water and sanitation services. In Mexico City, for example, 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.⁴¹ This means that households from neighbourhoods with a low development level pay lower bills.

34. 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.⁴² In addition to cross-subsidization, Costa Rica also has a national system of targeted subsidies for the consumption of water and sanitation services, set under Executive Decree No. 39757 of 2016. Households identified as in situations of poverty receive a subsidy of 50 per cent, and those in situations of extreme poverty a subsidy of 100 per cent, of the cost of up to 15 cubic metres of water per month. Both the consumption quantity and the identified households are revised periodically. In other countries, subsidies have been provided based exclusively on household income.⁴³ To help the most vulnerable households cover tariffs, the Government of Singapore provides social assistance, via annual vouchers of between \$40 and \$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.⁴⁴

Water Resources Planning and Management, vol. 145, No. 4 (2019); and Rita Martins and others, "Water affordability issues in developed countries – the relevance of micro approaches", *Utilities Policy*, vol. 43, part A, pp. 117–123.

⁴¹ Submission from Mexico.

⁴² Submission from Costa Rica.

⁴³ Submission from Singapore.

⁴⁴ Submission from Slovenia.

35. In relation to disconnections of water services, several States have taken measures to explicitly prohibit disconnection. 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 of March until further notice).⁴⁵ In other examples, measures to prohibit disconnections have been implemented with safeguards to provide minimum levels of water. 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.⁴⁶ 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,⁴⁷ 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.

C. Service regulation

1. Special Rapporteur's report on service regulation⁴⁸

36. 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.

37. 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.

2. Progress since 2010

38. 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. It is challenging to provide specific examples where regulatory frameworks or bodies are fully aligned with the human rights framework. However, in some States, the regulatory bodies in place incorporate some elements of the human rights to water and sanitation.

39. 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

⁴⁵ Submission from Costa Rica.

⁴⁶ See also submission from Poland.

⁴⁷ Submission from the Red Nacional de Acueductos Comunitarios de Colombia.

⁴⁸ A/HRC/36/45.

and sanitation services.⁴⁹ 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). Another example is 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. 7593/1996.⁵⁰ This body 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.

40. Additionally, steps have been taken to identify and regulate informal service providers to hold them accountable. In the Plurinational State of Bolivia, the authority for social control of water and sanitation services has been working on identifying and evaluating informal service providers, especially those related to faecal sludge management, with a view to developing strategies for formal regularization and control.⁵¹

D. Principle of accountability

1. Special Rapporteur's report on accountability⁵²

41. The principle of accountability in the water and sanitation sector is a key principle that has gained momentum recently. The evolution of the commitment to accountability in the sector is captured by the Global Analysis and Assessment of Sanitation and Drinking-Water country reports. For instance, in 2011, nearly half of the 75 responding countries indicated that they used periodic review processes as means of holding governments accountable for achieving expected results.⁵³ In 2019, over two thirds of the 115 responding countries reported that they had conducted joint sector reviews for water and sanitation, often resulting in the revision of national policies and the establishment of new priorities.⁵⁴

42. In addition, the rise of non-governmental organizations and their work on accountability further indicate the importance of the principle of accountability. For instance 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.

43. 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. At the outset of his term as mandate holder, the Special Rapporteur highlighted that important progress could be made in the realization of the human rights to water and sanitation by guaranteeing that they were explicitly recognized in national legislation and by developing holistic and comprehensive national policies, regulations and budgeting frameworks reflecting those

⁴⁹ Submission from the Plurinational State of Bolivia.

⁵⁰ Submission from Costa Rica.

⁵¹ Submission from the Plurinational State of Bolivia.

⁵² A/73/162.

⁵³ See www.un.org/waterforlifedecade/pdf/glaas_report_2012_eng.pdf.

⁵⁴ See <https://apps.who.int/iris/bitstream/handle/10665/326444/9789241516297-eng.pdf?ua=1>.

rights. 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.⁵⁵

44. 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 specificities of the sector imply that the traditional State-centred human rights framework leaves gaps in the existing accountability mechanisms with respect to holding actors other than States accountable. When the rights to water and sanitation are affected, it is not always clear to whom related action may be attributed, why such action was taken, how sanctions may be enforced against those who caused harm or how to remedy the situation. Furthermore, globalization and the neoliberal wave have weakened the role of the State in the provision and regulation of water and sanitation services, and the imbalance of power has at times affected the exercise of the human rights to water and sanitation. This raises questions as to the effective regulation of private service providers and, in turn, poses challenges to accountability mechanisms, especially considering that those services are provided through a system of natural monopoly, with usually only one provider for a given territory. Another unique feature of the water and sanitation sector is the widespread presence of informal service providers that are not regulated and operate without a licence and that, as a result, may not be held accountable. Against this backdrop, 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).

2. Progress since 2010

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

46. There are various examples of legal frameworks clarifying the roles and responsibilities of existing actors involved in water and sanitation services provision. 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.⁵⁶ 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.⁵⁷

47. As for 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.⁵⁸ 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. Such hearings are intended to facilitate dialogue between civil society and public authorities, especially regarding the evaluation of results and the recommendation of future priorities. In other countries, steps have been taken to establish an enabling

⁵⁵ A/HRC/30/39/Add.1, para. 7.

⁵⁶ See also the submission from the Plurinational State of Bolivia.

⁵⁷ See also the submission from Slovakia.

⁵⁸ Submission from the Plurinational State of Bolivia.

environment for answerability, in particular for empowering individuals to hold actors accountable. 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.⁵⁹

V. Human rights and a people-centric approach

48. 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.

A. Gender

1. Special Rapporteur's report on gender equality⁶⁰

49. The adoption of the Sustainable Development Goals put an additional spotlight on gender gaps and inequalities faced by women and girls. Closely linked to Sustainable Development Goal 5 on achieving gender equality and the empowerment of women and girls, Goal 6 includes targets to achieve universal and equitable access to safe and affordable drinking water for all, and explicitly recognizes the importance of paying special attention to the needs of women and girls in achieving access for all to adequate and equitable sanitation and hygiene. Such attention led to growing calls for gender-sensitive data in the water and sanitation sector, to document and address the burdens on women and girls. Already, the analysis used in *The World's Women* reports, issued every five years since 1990, had stressed the importance of sex-disaggregated data in critical aspects of life, one of them being access to water and sanitation.⁶¹ In 2015, the World Water Assessment Programme developed a toolkit on sex-disaggregated data on water, which is designed to help decision makers adopt data-driven water policies and programmes that tackle gender inequalities in the sector.⁶²

50. 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.

51. In his 2016 report on gender equality, the Special Rapporteur outlined several areas that required particular attention in order to prevent and respond to gender inequalities in access to water and sanitation. He emphasized that root causes of gender inequalities in the enjoyment of the human rights to water and sanitation were complex and context dependent. Progress towards substantive equality in access to water and sanitation therefore requires public action on different fronts. 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. This includes supporting and developing approaches that challenge social norms, stereotypes and intra-household patterns that act as such barriers. 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

⁵⁹ Submission from WaterAid.

⁶⁰ A/HRC/33/49.

⁶¹ See <https://unstats.un.org/unsd/demographic-social/products/worldswomen/>.

⁶² See www.unesco.org/new/en/natural-sciences/environment/water/wwap/water-and-gender/methodology-indicators-and-toolkit/.

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.

2. Progress since 2010

52. 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.

53. Several of the submissions illustrated measures to redress gender inequalities in the provision of and access to water and sanitation, particularly through guidelines that have incorporated a gender-based approach to water and sanitation services. 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.⁶³ For example, the 2016 guidelines for the implementation of gender-intensive interventions call specifically for developing the institutional capacities of women for the sustainable management of water and sanitation services and, in turn, overcoming the gender gaps. Most recently, the 2019 operational guideline 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,⁶⁴ 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. For instance, in the Community-led Accelerated Water, Sanitation and Hygiene for All project in Ethiopia, Finland has supported the development of a manual for addressing gender issues that looks at the gender differences concerning access to water and sanitation facilities, as well as access to information and participation, decision-making, economic empowerment and capacity development. It also explains how to address gender issues in all stages of the cycle of community management projects in the area of water, sanitation and hygiene, from identification and design to monitoring and evaluation.

54. WaterAid has also developed series of guidelines to redress gender inequalities in water and sanitation programmes.⁶⁵ 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.

B. Forcibly displaced persons

1. Special Rapporteur's report on forcibly displaced persons⁶⁶

55. 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

⁶³ Submission from the Plurinational State of Bolivia.

⁶⁴ Submission from Finland.

⁶⁵ Submission from WaterAid.

⁶⁶ A/HRC/39/55.

have fled to Bangladesh since 2017.⁶⁷ 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.

56. 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.

2. Progress since 2010

57. 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.

58. 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. 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.⁶⁸ 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.

C. Spheres of life beyond the household

1. Special Rapporteur’s report on access to water and sanitation in spheres of life beyond the household⁶⁹

59. The adoption of the Sustainable Development Goals broadened the perspective on water, sanitation and hygiene services provisions and facilities, eliciting the need to take into account access to services in non-household settings, such as schools, health-care facilities and workplaces. Accordingly, 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

⁶⁷ Office of the United Nations High Commissioner for Refugees, Operational Portal: Refugee Situations. Available at <https://data2.unhcr.org/en/situations> (accessed on 17 July 2020).

⁶⁸ Submission from Mexico.

⁶⁹ A/HRC/42/47.

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.

60. 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. In light of the clear need for people to access water and sanitation beyond the domestic sphere and in consideration of the obligations of States to respect, protect and fulfil the human rights to water and sanitation for all people, ignoring those needs can result in a human rights gap. Accordingly, in his report, the Special Rapporteur clarified the vital need for greater consideration of spheres of life beyond the household.

61. Access to water and sanitation in many spheres of life beyond the household is an essential element of the enjoyment of the human rights to water and sanitation. However, there is often evident neglect of the provision and promotion of these vital services in such places. 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 such cases, the violations of the rights to water and sanitation result in the violation of several other related rights. The failure of States to include access to water and sanitation in public spaces and in other spheres of life beyond the household within their policy and planning is also inconsistent with the commitment they have made to the Sustainable Development Goals. 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. That requires concerted action from national and local governments, service providers and regulators in breaking down barriers to access and clearly identifying the roles and responsibilities of all actors involved in provision.

2. Progress since 2010

62. Although the obligations of States to respect, protect and fulfil the human rights to water and sanitation extend to all persons without discrimination, national policy and practice regarding the progressive realization of those rights has had a tendency to be limited, wholly or mostly, to the implementation of projects aimed at improving access within formal households. 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.

63. While the submissions received did not specify any concrete measures taken to include water and sanitation in public spaces, guidelines and recommendations on how to provide water and sanitation services in public spaces do exist. For example, 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,⁷⁰ describes and illustrates the essential (and desirable) features that make public toilets female-friendly.

VI. Concluding remarks

64. **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**

⁷⁰ Submission from WaterAid.

related to eliminating inequalities in access and realizing the human rights to water and sanitation.⁷¹ 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.

65. 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.

⁷¹ A/HRC/30/39/Add.1, para. 15.