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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## **Follow-up report on the visit of the Special Rapporteur to Mongolia**

### **Report of the Special Rapporteur on the human rights to safe drinking water and sanitation\***

#### *Summary*

The Special Rapporteur seeks to enhance the effectiveness of his official country visits by undertaking a follow-up analysis of the recommendations included in the country visit report. The report of the official visit to Mongolia (A/HRC/39/55/Add.2) was presented to the Human Rights Council in September 2018. The main findings of the follow-up are presented in this report, introducing the level of development of the recommendations and highlighting further recommendations derived from the current status. According to the 6 levels of development, the 19 recommendations are classified as: 1 “good progress”, 6 “progress on-going”, 3 “progress not started”, 5 “progress limited” and 4 “no assessment can be made due to lack of information”.

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\* The present document is being issued without formal editing.



## I. Introduction

1. Pursuant to resolution 42/5 of the Human Rights Council, the Special Rapporteur on the human rights to safe drinking water and sanitation undertakes official country visits to promote the progressive realization of the human right to safe drinking water and sanitation.
2. The Human Rights Council encourages all Governments to continue to respond to requests by the Special Rapporteur, to follow up effectively on the recommendations of the mandate holder and to make available information on measures taken in this regard (Resolution 33/10, para 15). Furthermore, the Manual of Operations of the Special Procedures of the Human Rights Council stipulates that Special Procedures mandate holders can seek to enhance the effectiveness of their country visits in various ways, including by formulating their recommendations in ways that facilitate implementation and monitoring and undertaking follow-up initiatives through communications and further visits (paras. 97 to 105). In this connection, the Special Rapporteur seeks to enhance the effectiveness of his official country visits by undertaking a follow-up analysis of those visits focusing on the implementation of recommendations presented in his country visit reports.<sup>1</sup>
3. The official visit to Mongolia was undertaken upon the invitation of the Government from 9 to 20 April 2018. During his visit, the Special Rapporteur had the opportunity to meet with different interlocutors, including the Government, representatives of international organizations, multilateral funders and civil society, and several residents. At the end of the visit, he shared his preliminary findings with the Government and then held a press conference and issued a press release and preliminary statement on 20 April 2018.<sup>2</sup> The report of the official visit (A/HRC/39/55/Add.2) was presented to the Human Rights Council in September 2018.
4. In undertaking the present follow-up report, the Special Rapporteur, between October 2019 and April 2020, conducted desk research on the implementation of the recommendations provided to the Government in his country visit report, in order to develop a picture of the Government's current actions, inactions and progress. To support the research, questionnaire to the Government was sent and the Government of Mongolia submitted a written response to the questionnaire on 3 April 2020. Furthermore, the Government of Mongolia provided oral updates and written submissions on their implementation of the Special Rapporteur's recommendation during the interactive dialogue of the 39th and 42nd sessions of the Human Rights Council. The Special Rapporteur furthermore engaged the Mongolian population through social media outlet asking about their observation and perception on the improvement of access to water and sanitation and the human rights to water and sanitation since the visit, receiving limited contribution.
5. In the current report, the main findings of the follow-up are presented, introducing the level of development of the recommendations and highlighting further recommendations derived from the current status. It is organized through relevant clusters of recommendations. The level of implementation of the recommendations are assessed in accordance with the following categories: 1) good progress, 2) progress on-going 3) progress limited, 4) progress not started, 5) unable to assess due to lack of information and 6) retrogression.
6. Prior to final submission, the current report was shared with the Government of Mongolia on 7 July 2020 to which the Government did not provide comments.

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<sup>1</sup> For more information on the follow-up analysis project see: A/HRC/39/55, Annex.

<sup>2</sup> [https://www.ohchr.org/Documents/Issues/Water/Visit\\_Mongolia.pdf](https://www.ohchr.org/Documents/Issues/Water/Visit_Mongolia.pdf).

## II. Legal, policy and institutional framework

### A. Recommendation on legal recognition of the human rights to water and sanitation

**RECOMMENDATION 1:** Adopt legal provisions that recognize the human rights to water and sanitation at the national level (A/HRC/39/55/Add.2, para. 82(a)).

7. At the time of the visit, the human rights to water and sanitation are not explicitly recognized in the Constitution of Mongolia, and those rights can be inferred from article 16(2) on the right to a healthy and safe environment of the Constitution. A set of three legislation – “Law on the utilization of water supply and sewage in urban settlements”, “Law on the exploitation of natural resources”, and “Law on Water” regulate certain aspects of water and sanitation services. However, they do not address elements of the normative content and principles of the human rights to water and sanitation such as affordability including the prohibition of disconnection owing to an inability to pay, as well as the principles of equality and non-discrimination, access to information, participation and accountability (A/HRC/39/55/Add.2, para. 13).

8. Since the visit took place, a notable legal development has been made on the amendments to the Constitution passed on 14 November 2019, among which include the amendment to Article 6(2): “land, except for the property owned by the citizens of Mongolia, subsoil, its wealth, forests, water resources, and wildlife shall be state public property.”<sup>3</sup> The amended article further states that “the law shall establish the legal basis for the development of strategically important mineral deposits in accordance with the principle that natural resources are in the hands of the people, and the majority of its benefits shall go to the people”. This is a welcome development since it creates a ground for the legal recognition of human consumption as the priority in the use of water resource, and clarifies the procedures for water allocation, which is in line with the human rights framework. Another development is the amendment to the “Law on Water” in January 2020, which provides a legal basis for the establishment of the State Water Agency, which is examined under recommendation 4 below on the institutional framework.

9. While welcoming the amendments, which constitutes a step towards implementing the Government’s obligation to ensure adequate and equal access to drinking water, the Special Rapporteur reminds the Government that such amendments do not explicitly recognize drinking water and sanitation as human rights. Explicit legal recognition of water and sanitation as human rights is critical as it shapes the environment in which a State can fully implement its obligation to progressively realize the human rights to water and sanitation. Recognition of the human rights to safe drinking water and sanitation, and the establishment of the duty of the State to guarantee such rights in the domestic legal framework, would ensure the justiciability of the rights, enabling the individuals and groups to claim their rights and for domestic courts to adjudicate those rights.

**PROGRESS ON-GOING:** The Special Rapporteur finds that the Government has shown signs of efforts to progress towards addressing water and sanitation issues in the domestic legal framework. He encourages the Government to work towards an explicit legal recognition of the human rights to water and sanitation so that the human rights to water and sanitation are justiciable and accountability framework can be established.

<sup>3</sup> Parliament of Mongolia, “Amendments to the Constitution”, November 2019.

## B. Recommendation on policies and programmes

**RECOMMENDATION 2:** Incorporate the normative content and principles of the human rights to water and sanitation for policies and programmes on water, sanitation and hygiene (A/HRC/39/55/Add.2, para. 82(b)).

10. The National Water Programme of Mongolia is currently in its second period (2016 – 2021). The Programme aims to provide safe and clean water to the population, meeting the standard of health and hygiene to at least 60 per cent of the rural population and 70 per cent of the urban population and to connect 30,000 households to central water distribution pipes (A/HRC/39/55/Add.2, para. 19). With approximately one year left until the end of the second period, the Special Rapporteur’s recommendation to incorporate the normative content and principles of the human rights to water and sanitation to the Programme is premature to be assessed at this time. Therefore, the Special Rapporteur wishes to focus on how the Government can assess and evaluate the Programme from a human rights perspective.

11. The final evaluation of the National Water Programme is scheduled to be presented to the National Security Council, a state consultative body to the Office of the President, in June 2021. The evaluation criteria listed in the Programme that are relevant to the human rights to safe drinking water and sanitation include the number of people provided with water that meets the standard of quality, and increase in access to sewerage, among other criteria related to availability of water, such as the number of reservoirs built and in use.<sup>4</sup> From the perspective of the human rights to water and sanitation, those criteria are limited in that they only address the elements of availability and quality of the normative content, and exclude affordability, accessibility, acceptability, privacy and dignity. While the identified criteria will enable the Government to take stock of the “vertical progressive realization” of the human rights to water and sanitation, in which efforts are made to improve services for the largest number of people, they are not likely to capture “horizontal progressive realization”, where priority is put on reducing inequalities in access and providing services to groups that face additional barriers to access to water and sanitation (A/HRC/45/10).

12. In addition to identifying inequalities, monitoring according to the human rights framework should take into account non-quantitative criteria, including institutional and legal framework as well as In particular, the right of equality and non-discrimination, access to information, participation, accountability and sustainability, must be addressed as part of the evaluation process. Additionally, the maximum available resources allocated and spent to realize the human rights to water and sanitation is a key element for this evaluation. The Special Rapporteur notes that the evaluation criteria for the National Water Programme include “the improvement of the legal environment of the water sector and reduction of violations, gaps and duplication” as well as “improved level of water supply and professional training in the water sector”.<sup>5</sup> The Special Rapporteur commends this attention to the legal environment and technical resources related to water and sanitation provisions. He recommends that the Government include evaluating how the Programme and the relevant actors – including State and non-State actors - have complied with human rights standards and principles.

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<sup>4</sup> Government of Mongolia, National Water Programme, 2010, 14.

<sup>5</sup> Ibid., 15.

**PROGRESS NOT STARTED:** The recommendation on incorporating the framework of the human rights to water and sanitation is premature to be examined at this stage, given that the second period of the National Water Programme is in place until 2021. Therefore, the Special Rapporteur focused on the evaluation stage of such Programme and he encourages that identification of inequalities in access to water and sanitation are included as part of the assessment. The human rights framework requires the use of qualitative, in addition to quantitative monitoring, ensuring the participation and accountability of all actors. The Special Rapporteur recommends that human rights standards and principles are also taken into account while evaluating the legal and institutional aspects of the Programme, and that planning of the next phase in water and sanitation policy be informed by human rights standards and principles.

### C. Recommendation on Sustainable Development Goals

**RECOMMENDATION 3:** Align the Sustainable Development Vision 2030 of Mongolia on water and sanitation, in its aspirations and its language, with Sustainable Development Goals 6.1 and 6.2 and implement the Sustainable Development Vision 2030 through a human rights lens (A/HRC/39/55/Add.2, para. 82(d)).

13. As part of its commitment to reach the Sustainable Development Goals (SDG) 6.1 and 6.2 on universal access to water and sanitation, the Government adopted the Sustainable Development Vision 2030 (SDV) in 2016. In relation to access to water, the SDV aims to supply safe drinking water to 80 per cent by 2020, 85 per cent by 2025 and 90 per cent by 2030 (A/HRC/39/55/Add.2, para. 21). While no information on the progress of SDV is available, UNICEF/WHO Joint Monitoring Programme (JMP) data indicates that, in 2017, 24 per cent of persons in Mongolia had access to safely managed water services.<sup>6</sup> In relation to access to sanitation, SDV aims to ensure that 40 per cent of the population uses improved sanitation and hygiene facilities by 2020 and 60 per cent by 2030. Similarly, with no official data on the progress, JMP report indicated that 58 per cent of the population had access to basic sanitation services, with no information available on improved sanitation services.

14. While States have margins of discretion to set their national targets, the Special Rapporteur recommended that the aspiration and the language of SDV be aligned with SDGs. In its Voluntary National Review in 2019, the Government indicated that the National Development Agency had conducted a coherence assessment between the SDV and the SDGs, finding that approximately 50 – 60 per cent of the SDGs were reflected in the SDV. The Government explained that a systematic review of all effective medium and short-term policies was being undertaken in order to assess their alignments to the SDGs.<sup>7</sup> The Special Rapporteur welcomes the review; however, notes that the results of such review are not yet made available.

15. Moving beyond the SDV, the Government has initiated discussions on its long-term development plan, “Vision-2050”, which commenced with the first discussion of the resolution accepting Vision-2050 by the the parliament of Mongolia, on 5 May 2020.<sup>8</sup> The Special Rapporteur notes that the draft long-term development policy of Mongolia, Vision-2050, still refers to “adequate services” of water and sanitation, a level of service different from “safely managed”, which is the indicator of the SDGs. The draft Vision-2050 aims to supply safe drinking water to 87 per cent of the population by 2030, and to 90 per cent by 2050. Targets for sanitation are 75 per cent of the population by 2030, 82 per cent by 2040, and 90 per cent by 2050.

<sup>6</sup> UNICEF/WHO JMP, “Progress on household drinking water, sanitation and hygiene I 2000-2017 2019, Special Focus on Inequalities”, 2019, 98 and 116.

<sup>7</sup> Mongolia Voluntary National Review Report 2019, 2019, 39.

<sup>8</sup> Government of Mongolia, “The first discussion of the draft resolution of the State Great Hural on “Approval of the long-term development concept of Mongolia” Vision-2050 was held”, 5 May 2020.

16. In addition, Vision-2050 changes from the SDV by adding a goal for water quality. The policy adds a goal to provide 95 per cent clean water in 2050, increasing from 92 per cent in 2018, addressing the need for indicators regarding water quality. The Special Rapporteur commends the Government on adding this important element of the human rights standards to the policy, being a step forward to further integrate the element of quality in Mongolia's policy to implement the SDGs. While the Special Rapporteur welcomes the inclusion of water quality in the long-term development policy of Mongolia, he notes that aspects of the human rights to water and sanitation are still excluded, namely, affordability and accessibility.

17. The method for evaluating Vision-2050 is linked to corresponding SDG indicators 6.1.1 and 6.2.1, namely, "the proportion of population using safely managed drinking water services" and "the proportion of population using safely managed sanitation and hand-washing facilities with soap and water".<sup>9</sup> The Special Rapporteur wishes to remind the Government that relying on SDG indicators, which focus largely on the access to water and sanitation by improving services, does not fully equate to the full implementation of States' human rights obligation (A/HRC/45/10). For instance, the Special Rapporteur has highlighted the gap in monitoring SDGs 6.1 and 6.2, namely, the omission of equality and affordability as a standard for its target.<sup>10</sup> More concretely, such an approach does not address ensuring affordability of access to water and sanitation by providing subsidies or even enabling people to access water for free in critical circumstances. It also does not include the provision of services for persons with specific needs, such as persons with disabilities. Therefore, the Special Rapporteur emphasizes that for the Government to be fully compliant with the human rights to water and sanitation, complementary measures and efforts should be made in addition to its on-going efforts to achieve SDGs.

**PROGRESS ON-GOING:** The Special Rapporteur acknowledges that the Government has reported in its Voluntary National Review making efforts to align its Sustainable Development Vision 2030 with the global SDGs, and looks forward to the positive outcome of this process. He also welcomes and notes that Vision-2050 seeks to integrate some aspects of the SDGs relating to water and sanitation. However, wishes to point out that Vision-2050 does not address the key aspects of goals relating to "leaving no one behind", and that it does not fully incorporate the framework of the human rights to water and sanitation. Looking forward, he recommends that the Government include the normative content of the human rights to water and sanitation, particularly affordability and acceptability, and human rights principles, in its policy to implement the SDGs.

### III. Recommendation on institutional framework

#### A. Recommendation on institutional arrangements

18. The Special Rapporteur provided a set of three recommendations to address the institutional arrangements in the water and sanitation sector, their coordination and clarification of their roles and responsibilities.

<sup>9</sup> "Vision 2050", 2020, 306.

<sup>10</sup> Open Letter from the Special Rapporteur to the WHO-UNICEF JMP (28 July 2017): [https://www.ohchr.org/Documents/Issues/Water/OpenLetter\\_WHO\\_UNICEF\\_WASH.pdf](https://www.ohchr.org/Documents/Issues/Water/OpenLetter_WHO_UNICEF_WASH.pdf).

**RECOMMENDATION 4:** Conduct a comprehensive assessment of the institutional arrangements in the water and sanitation sector, with a view to establishing a unified national policy and a governmental body tasked to coordinate the water and sanitation policy of the central Government, together with focal points in each ministry. That coordination should be approached through the human rights framework and should ensure that the responsible bodies are held accountable (A/HRC/39/55/Add.2, para. 82(c)(i)).

**RECOMMENDATION 5:** Improve dialogue and exchange of information between all levels of government in relation to access to water and sanitation, in accordance with a clearly established human rights framework (A/HRC/39/55/Add.2, para. 82(c)(ii)).

**RECOMMENDATION 6:** Establish clearly defined roles and responsibilities of governmental institutions related to water and sanitation in order to address the scattered responsibilities that prevent individuals from effectively holding the Government accountable for its human rights obligations (A/HRC/39/55/Add.2, para. 82(c)(iii)).

19. At the time of the visit, responsibility for implementing the human rights to water and sanitation was scattered among numerous governmental bodies and institutions, preventing individuals from effectively holding the Government accountable for its human rights obligations (A/HRC/39/55/Add.2, para. 23). Particularly, following the dissolution of the National Water Authority in 2012, several ministries were tasked with fragmented aspects of providing drinking water and sanitation services to the population. Each ministry had its own role in the water and sanitation policy, but there was no unified national policy, nor a body in the central Government tasked with ensuring proper and effective coordination. The Special Rapporteur pointed out that the drinking water and sanitation agenda was diluted in the agenda of water resources management. This lack of a clear institutional framework and a centralized strategy shifted the burden of responsibility to local governments, which are responsible for the actual provision of services to the local population. The Special Rapporteur also emphasized that there is no nationally designated agency with a clear mandate to plan and implement interventions in the area of sanitation (A/HRC/39/55/Add.2, para. 24).

20. At the forty-second session of the Human Rights Council in September 2018, the Government explained that the Ministry of Environment and Tourism established a Working Group to review the laws and regulations and to examine the possibility establishing a government administrative body for water issues. Subsequently, in January 2020, the Law on Water was amended to provide the legal basis for the establishment of a State Water Agency.<sup>11</sup> The responsibilities of the State Water Agency include the responsibility “to determine, process, enforce and monitor the amount of available water resources for each use purpose in the basins” (Article 16<sup>14.3</sup> of the Law on Water). The Special Rapporteur emphasizes that the availability element of the human rights to water and sanitation includes prioritizing water for drinking and domestic usage in water allocation. The State Water Agency will also be responsible for developing “methodologies and instructions for conducting research in the field of ecological and economic assessment of water, setting water prices and tariffs, and estimating the damage caused to water resources” (Article 16.4.7 of the Law on Water). This touches upon some normative content of the human rights to water and sanitation, namely, affordability and quality; however, it is unclear whether the execution of the State Water Agency’s responsibility is exclusively associated to water resources management or to water and sanitation services, leaving a gap, particularly to which extent it will be guided by the human rights framework. While the Special Rapporteur notes the Government’s effort to address some elements of the normative content of the human rights to water and sanitation, he adds that the elements of accessibility and

<sup>11</sup> Parliament of Mongolia, “On amendments to the law on water”, January 2020, available from <http://forum.parliament.mn/files/89403>.

acceptability are not addressed as part of the responsibilities of the State Water Agency outlined in the amended Law on Water.

21. Following the amendment to the Law on Water, in April 2020, the Government decided to establish the State Water Agency under the Ministry of Environment and Tourism, with a maximum staff of 38 people and within the existing budget.<sup>12</sup> The Special Rapporteur cautions that in addition to creating the State Water Agency, the Government must ensure that enough resources are allocated to support the State Water Agency's new coordinating role. Allocating sufficient resources – including non-financial resources such as institutional and human resources – constitute the State's obligation to use the maximum of its available resources to progressively realize the human rights to water and sanitation (A/HRC/45/10).

22. In addition to the State Water Agency, the National Water Council is also to be established under the amended Law on Water, as a branch to be under the National Security Council, which reports to the President. According to the Law on Water, it is to be responsible for providing policy recommendations and exchanging information aimed at ensuring water security (article 9<sup>1</sup>.1.1). The specific functions of the National Water Council, how they differ from the State Water Agency and what mechanisms are in place to coordinate the roles of the two bodies are not yet clarified. The Special Rapporteur encourages the Government to organize the functions of the two entities in a way to avoid overlap and to ensure that their activities across the water and sanitation sector are specifically coordinated, with clear responsibilities for both entities.

23. Despite those changes, responsibility for water and sanitation provision appears to be still divided. As an example, the Ministry of Construction and Urban Development is responsible for the "Government policy on housing and public utilities", approved by the Government in resolution 94 of 2020, which sets the target of piped connections for 90 per cent of the population by 2030.<sup>13</sup> The Special Rapporteur recommends that the Government clarifies how the National Water Authority will collaborate with other ministries responsible for water and sanitation provision across the country, in various contexts including, *inter alia*, formal housing and urban development, and service provision for nomadic populations.

24. The Special Rapporteur congratulates the Government on its efforts to address the need for coordination in the water and sanitation sector and looks forward to the progress made in this regard. Particularly, he encourages the Government to clarify how it will ensure that the State Water Agency and National Water Council will work in tandem to realize the human rights to water and sanitation, and to ensure accountability at all levels of the Government. In addition, he looks forward to a clear definition on how these bodies will address the issues of acceptability and accessibility, ensuring that equal access to water and sanitation is prioritized in policy and in action.

#### **RECOMMENDATION 4 on assessment institutional arrangements - PROGRESS**

**ON-GOING:** The Special Rapporteur urges the Government to use the human rights framework to guide the establishment of the State Water Agency and the National Water Council, to clarify their responsibility related to water and sanitation provision and to ensure that accountability mechanisms are in place. In particular, he recommends that the Government clarifies how these entities will collaborate to ensure that equal access to water and sanitation will be ensured, and that all human rights standards and principles are included in the functions of both the State Water Agency and the National Water Council.

<sup>12</sup> Government of Mongolia, "Established a Water Department", 1 April 2020.

<sup>13</sup> Government of Mongolia, Annex to Government Resolution No. 94 of 2020, Government Policy on Public Housing and Utilities, 2020.



**RECOMMENDATION 5 on coordination and exchange of information –**

**PROGRESS ON-GOING:** The Special Rapporteur welcomes the Government's efforts to create the State Water Agency and the National Water Council. He looks forward to additional guidelines on how the new bodies will work to coordinate levels of state administration in order to avoid overlaps and to address the human rights to water and sanitation.

**RECOMMENDATION 6 on roles and responsibilities – PROGRESS LIMITED:**

The Special Rapporteur recommends that the Government clarify the roles and responsibilities of the State Water Agency in relation to those of other governmental bodies responsible for water and sanitation issues in the Government, including but not limited to the Ministry of Construction and Urban Development.

**B. Recommendation on designated governmental agency – *ger* areas**

**RECOMMENDATION 7:** Establish a designated governmental agency with a clear mandate to plan and implement interventions in the area of sanitation, with a particular focus on the *ger* areas (A/HRC/39/55/Add.2, para. 82(c)(iv)).

25. During the visit, the Special Rapporteur noted that access to sanitation services needed specific attention. Particularly, he observed that toilets in the *ger* areas, which are largely very unsafe, are located outside the *gers* but inside the *ger* compound. In the cold weather, the Special Rapporteur was told that residents face the dilemma of either heating a *ger*, which is the main living space, or heating the toilet. In addition, the default way of upgrading the sanitation solutions, for example installing toilets and developing a sewerage network, faces challenges. Building toilets inside the *ger* is not possible as the *ger* is too small and in general, there are no walls dividing the inside. Further, because of the cold climate, sewerage pipes would need to be installed deeper in the ground than the standard depth to prevent the pipes from freezing (A/HRC/39/55/Add.2, para. 4). Despite these specific challenges, there was no agency in charge of monitoring sanitation in Mongolia, and no agency specifically tasked with planning and providing sanitation services in the *ger* areas (A/HRC/39/55/Add. 2, para. 24).

26. The Special Rapporteur notes that the responsibilities of the new State Water Agency as identified in the Law on Water do not include specific reference to sanitation, nor to the *ger* areas. The Special Rapporteur notes that the establishment of the State Water Agency is an opportune moment for the Government to specifically integrate sanitation provision for the *ger* areas into its functions. The Special Rapporteur reminds the Government of the importance of establishing a designated governmental agency responsible for sanitation. This would protect the Government from overlooking the issue in favor of policies on water, and strengthen accountability for failures to realize the human right to sanitation, by clarifying the roles and responsibilities of government actors (A/73/163, para. 10). The Special Rapporteur continues to be concerned about the lack of specific focus on the *ger* areas. The creation of an agency with a specific responsibility to improve water and sanitation in the *ger* areas would be a much-needed positive step towards realizing the human rights to water and sanitation of those in vulnerable situations.

**PROGRESS NOT STARTED:** The Special Rapporteur reiterates his recommendation to establish a designated government agency specifically with a mandate to address access to sanitation in the *ger* areas. More specifically, he urges the Government to take measures to ensure that the human rights to water and sanitation of people living in the *ger* areas are prioritized at an institutional level, and to ensure that the barriers to accessing water and sanitation in these areas are addressed.

### C. Recommendation on accountability mechanisms

**RECOMMENDATION 8:** Establish accountability mechanisms to monitor the compliance of the relevant governmental institutions and informal service providers with established standards and impose sanctions, and ensure that corrective and remedial action is taken.” (A/HRC/39/55/Add.2, para. 82(c)(v)).

27. The Special Rapporteur expressed concern that responsibility of providing water and sanitation services was scattered among numerous governmental bodies and institutions, which prevented individuals from effectively holding the Government accountable for its human rights obligations (A/HRC/39/55/Add.2, para. 23). He emphasized that mechanisms should be in place to monitor compliance with established standards, impose sanctions and ensure that corrective and remedial actions are taken (A/HRC/39/55/Add.2, para. 16).

28. In his 2018 report on accountability, the Special Rapporteur outlines three dimensions of ensuring accountability. First, the need for actors involved in the provision and regulation of water and sanitation service to act with clearly defined responsibilities and performance standards; second, the need for actors to be answerable to affected people and groups for their actions and decisions, ensuring transparency and participation in their decision-making; third, the need for mechanisms to ensure actor’s compliance with established standards, impose sanctions and ensure that corrective and remedial action is taken (A/73/163, para. 10).

29. Addressing the first dimension of accountability - the need for clearly defined roles, responsibility and standards - the new State Water Agency provides an opportunity for the Government to clearly define administrative responsibilities and standards for water provision in Mongolia. According to the amended Law on Water, the State Water Agency will be responsible for creating and organizing the implementation of a water resources management plan. The Special Rapporteur encourages the Government to include clearly defined roles and responsibilities of all actors, including local government as well as service providers in this plan. He also notes that a water resources management plan does not necessarily fulfil the human rights to water and sanitation, unless provisions to ensure the availability, accessibility, affordability, quality and acceptability of water and sanitation services are included. In order to ensure the first dimension of accountability, he emphasizes that the roles and responsibilities of the State Water Agency should be clearly defined and in line with the human rights obligations.

30. In order to address the second dimension of accountability, the functions of the State Water Agency should be organized and conducted in accordance with the human rights principles of transparency, access to information, and participation. Information on its operations should be accessible to the public in clear and understandable language and the ability to answer requests and clarifications should be improved.

31. The third dimension of accountability involves the need for mechanisms to impose sanctions, and ensure remedial action. At the time of the visit, as the human rights to water and sanitation were not explicitly recognized in the Constitution, the Constitutional Court did not have the jurisdiction to adjudicate cases and issues as a violation of the human rights to water and sanitation, including disconnection (A/HRC/39/55/Add. 2, para. 17). While the Special Rapporteur notes the Amendments to the Constitution (2019), in particular Article 6.2 (see recommendation 1, above), he raises doubts as to whether the Constitutional Court of Mongolia will consider this as a basis to adjudicate issues related to violations and abuse of the human rights to water and sanitation.

**PROGRESS LIMITED:** The Special Rapporteur notes that there remains a need for specific, purposeful action to be taken by the Government to specifically address accountability in the water and sanitation sector, particularly through the clarification of roles and responsibilities as part of the establishment of the new State Water Agency, and through ensuring the justiciability of the human rights to water and sanitation.

## D. Recommendation on regulatory framework

**RECOMMENDATION 9:** Establish a regulatory framework to regulate the provision of services, including those under the responsibility of local governments and of private informal service providers. (A/HRC/39/55/Add.2, para. 82(j)).

32. At the time of the visit, no regulatory framework regulating drinking water service provision was in place in Mongolia (A/HRC/39/55/Add.2, para. 55). The Special Rapporteur highlights that regulatory frameworks are essential for the implementation of the human rights to water and sanitation. Regulation plays a key role in monitoring service providers' compliance with the normative content of the human rights to water and sanitation and in ensuring accountability (A/HRC/36/45, para. 87).

33. The Special Rapporteur notes that Article 16<sup>1</sup> of the amended Law on Water provides that the State Water Agency shall develop and monitor water use in the country, and establish a water use database. He notes that from the information available on the State Water Agency, its responsibility to monitor water use does not equate to a regulatory framework to regulate the provision of water and sanitation services. There is a need for the regulation of the provision of both water and sanitation and including both formal and informal services, in addition to a focus on water resources.

34. Together with the limited scope of the State Water Agency's monitoring functions, another issue to raise is the independence of the State Water Agency, which will function under the Ministry of Tourism and Environment. As outlined in the Special Rapporteur's report on service regulation, what is essential from a human rights perspective is that actors carrying out regulatory functions be immune to pressures from any illegitimate interests and that the main objectives of regulation be aligned with the water and sanitation human rights standards and principle (A/HRC/36/45, para. 87). As such, the Special Rapporteur recommends that the Government clarify how the State Water Agency will remain independent in its monitoring functions.

**PROGRESS LIMITED:** The Special Rapporteur notes that the creation of the State Water Agency will coordinate the monitoring of water resources in Mongolia. He notes, however, that this monitoring function of the State Water Agency will not extend to both water and sanitation provisions, and that the monitoring of water resources does not fully satisfy the need for regulation within the context of the human rights to water and sanitation. He recommends that the Government assess the monitoring role of the State Water Agency to expand its monitoring scope. The Government should further take steps to enshrine the standards and principles of the human rights to water and sanitation into this monitoring and ensure the independence of this process from state or private interest.

## IV. Human rights to water and sanitation

### A. Recommendation on accessibility and equality

#### 1. Recommendation on disparities in schools

**RECOMMENDATION 10:** Address disparities between schools, so that all Mongolian students enjoy the same conditions and in particular, address water and sanitation conditions in dormitories in schools. Measures should aim to ensure continuous service of sanitation facilities in education facilities, by addressing the financial support needed to maintain sanitation facilities in schools. High priority should be given to programmes for menstrual hygiene management in schools and dormitories, with a focus on access to adequate facilities, sanitation, infrastructure and supplies to enable girls to change and dispose of menstrual materials (A/HRC/39/55/Add.2, para. 82(e)).

35. During the visit, the Special Rapporteur observed disparities in water and sanitation provisions in schools. While nearly half the schools in Mongolia had indoor toilets, it remains a concern as to whether the schools are able to afford the fees to maintain them. It was explained to the Special Rapporteur that some schools lock the bathrooms during school hours, limiting access for students, to reduce the costs of maintaining the facilities (A/HRC/39/55/Add. 2, para. 31). In addition, the Special Rapporteur visited several dormitories in rural areas where students were able to access water, albeit cold, and toilets were in good shape. However, he also visited dormitories where students were using very unsafe external toilets without any access to water. For those students, dormitories are their main habitual residence and he, therefore, emphasized that the Government needs to address water and sanitation conditions in dormitories in schools (A/HRC/39/55/Add. 2, para. 47). Regarding menstrual needs, the minimum standard study conducted by the Government in 2015 found that girls during their menstruation cycle had a tendency not to attend school, as they did not want to use the unimproved toilets. Access to water and showers in dormitories and the provision of pads for girls of menstruation age were not yet prioritized at the time of the visit (A/HRC/39/55/Add. 2, para. 78).

36. According to the WHO/UNICEF JMP, 63 per cent of schools in Mongolia had access to basic sanitation services in 2016.<sup>14</sup> This shows an increase from the numbers reported by the Government in 2015, which stated that around half of the schools in Mongolia had indoor toilets (A/HRC/39/55/Add.2, para. 76). Not all schools have equal access to sanitation services, however. 70.2 per cent of schools in urban areas have access to basic service, as opposed to 57.7 per cent in rural areas. This pattern is also true for access to water, 74.4 per cent of schools had access to basic services in 2016, with 84.8 per cent of urban schools and 72.9 per cent of schools in rural areas.

37. The persisting inequalities in access to water and sanitation between rural and urban schools are in part due to the specific technical and management requirements of services in rural areas. A related development is the Asian Development Bank's guide for improving water, sanitation and hygiene in rural schools in Mongolia released in April 2020. That guide addresses the lack of attention to the specific financial and technical needs of schools in rural areas and notes the need to diversify the types of services provided in schools, in order to fit them to local contexts, and provides guidance on how to identify appropriate sanitation options based on local ground types, water availability and financial capacity.<sup>15</sup> It includes measures to ensure the safe management of menstrual hygiene, including separate facilities, and bins and buckets of waters to dispose of sanitary napkins and/or tampons, as well as buckets of water to clean blood.<sup>16</sup> The Special Rapporteur recommends that the Government take note of this guidance, highlighting that services must be context-specific in order to best comply with the human rights to water and sanitation of targeted populations and to ensure their safe management (A/70/203).

38. The Special Rapporteur stresses the importance that the Government should place efforts to address the inequalities between access to water and sanitation in schools between rural and urban areas. He reminds the Government that the obligation of progressive realization, under the International Covenant on Economic, Social and Cultural Rights to which Mongolia is a State party, calls for a clear identification of the requirements to achieve equal access to an adequate level of those water and sanitation services for all people without discrimination. Fulfilling that obligation requires the taking of deliberate, concrete and targeted steps to improve access to water and sanitation for all to the maximum extent of available resources, included but not limited to financial resources (A/HRC/45/10).

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<sup>14</sup> UNICEF/WHO JMP, *Drinking water, sanitation, and hygiene in schools, Global Baseline Report 2018*, 2018, 34.

<sup>15</sup> Asian Development Bank, *Improving water, sanitation and hygiene in schools: a guide for practitioners and policy makers in Mongolia*, April 2020, 98.

<sup>16</sup> *Ibid.*, 102.

**PROGRESS NOT STARTED:** The Special Rapporteur emphasizes the need for the Government to allocate financial and non-financial resources to specifically address inequalities in access to water and sanitation services between schools in rural and urban areas. In doing so, the Special Rapporteur suggests the Government adopt a context-specific approach to service provision, and takes into account the needs of all by ensuring, *inter alia*, that menstrual hygiene in schools and dormitories is addressed, including the provision of supplies to enable girls to properly manage their menstruation.

## 2. Recommendation on *ger* areas

**RECOMMENDATION 11:** Address and bridge the gap between the *ger* and apartment areas in terms of the level of water and sanitation services, continuity of services and water tariffs. In doing so, devise short- and long-term measures to provide a gradual improvement in access to water and sanitation, with the aim of ensuring continuous services and connection to piped networks:

1. During the initial phases, envisage and plan to increase the number of water kiosks and improve the quality of pit latrines (A/HRC/39/55/Add.2, para. 82(f)(i)),
2. During the subsequent phases, with the expansion of piped networks to the *ger* areas, establish a specific programme or subsidy mechanism to support those who are economically vulnerable in improving the facilities in their homes that are needed to access a piped network and to pay fees for connecting to piped networks (A/HRC/39/55/Add.2, para. 82(f)(ii)).

39. Owing to the socioeconomic changes in the 1990s, and the impact thereof, internal migration to urban and peri-urban areas have been on the rise, with migrants settling in the *ger* areas. Migration of the nomadic population to urban areas has extended the *ger* areas in cities and villages and the speed of population growth in urban areas, mostly due to migration, was faster than the expansion of services provided, including water and sanitation. In 2018, most internal migrants in Mongolia settled in the *ger* areas on the outskirts of Ulaanbaatar which made up about 60 per cent of the city's population. Furthermore, it was estimated that 40 percent of them were believed to need support in order to improve their economic and living conditions, reporting low access to health services and employment opportunities.<sup>17</sup> The expansion of the *ger* areas occurred without prior planning and management, causing problems in relation to water, sanitation and wastewater disposal. The expansion also exacerbated unequal access to drinking water and sanitation services between those living in apartments or houses with centrally connected pipes and those living in the *ger* areas without a piped connection (A/HRC/39/55/Add.2, paras. 4 and 5).

40. The Special Rapporteur notes that the initial phase of bridging the gap in access to water and sanitation between the *ger* and apartment areas are in progress, finding information about projects aiming to improve water and sanitation within current service systems. One example is a 2.8 million USD project funded by the Asian Development Bank, aiming to support local livelihoods through improved household sanitation and strengthening the lifecycle for on-site (de-centralized) fecal waste management, including the collection, transport and composting of waste, in collaboration with communities, the private sector, and civil society organizations. In particular, the project aims to reduce soil pollution in the *ger* areas by building 1,500 sanitation units with on-site waste management by 2020, in association with the Ministry of Tourism and Environment.<sup>18</sup> Local entrepreneurial solutions have also been presented, such as the relatively affordable dry toilets being sold by Local

<sup>17</sup> IOM, "Mongolia Internal Migration Drives Urbanization, De-population of Rural Areas: IOM", 23 October 2018.

<sup>18</sup> Asian Development Bank, 49113 -Mongolia: Managing Soil Pollution in Ger Areas through Improved On-site Sanitation Project, 2016, 2.

Solutions, a non-governmental organization.<sup>19</sup> Despite these projects, the Special Rapporteur maintains that there is an urgent need for a unified and monitored Government policy on water and sanitation services, to ensure continued and effective progress.

41. Addressing the need for a long-term programme beyond improving local services, the Government has taken steps to connect the *ger* areas to piped connections. As part of the “Government policy on housing and public utilities”, the Government has set a target to increase the number of households in the *ger* areas living in apartments connected to public supply from 5,189 in 2018 to 140,000 in 2030.<sup>20</sup> The Special Rapporteur looks forward to positive outcomes from this policy. He cautions that the expansion of piped connections to the *ger* areas should remain affordable to the newly accessed populations, not only in terms of tariffs for use, but also when it comes to connection charges. His report on affordability details the various financing mechanisms that can be used to ensure the human rights of economically vulnerable populations through water and sanitation service provisions, through different tariffs and subsidies (A/HRC/30/39).

**PROGRESS ON-GOING:** The Special Rapporteur reiterates his recommendation that the Government focuses on eliminating inequalities between the *ger* and apartment areas in terms of access to water and sanitation. In order to achieve this, he recommends that the Government first work to coordinate initiatives to improve or expand upon existing services, identifying the yet unserved areas and monitoring the access of persons living in the *ger* areas. The creation of a specific agency responsible for provision would facilitate this coordination (see Recommendation 7). He commends the Government on setting targets for connecting *ger* area households to piped connections, at the same time, he urges the Government to make plans to ensure the affordability of connection to and use of these services.

### 3. Recommendation on urban-rural inequalities

**RECOMMENDATION 12:** Address urban-rural inequalities in access to water and sanitation services and give due priority to rural areas, with technical assistance and financial support to improve those services (A/HRC/39/55/Add.2, para. 82(g)).

42. The concentration of the population and the development around cities have shaped the disparity between the level of access to water and sanitation between cities and rural areas. During the visit in 2018, the Special Rapporteur observed that in urban areas residents enjoy relatively good access to improved water and sanitation, while access is lower among the poorest communities in rural areas and urban and peri-urban *ger* areas (A/HRC/39/55/Add. 2, para. 39). The 2019 WHO/UNICEF JMP reports – a report released after the visit – notes that between 2000 and 2017, the proportion of the population with access to at least basic sanitation services increased from 26 to 42 per cent in rural areas, and from 64 to 66 per cent in urban areas, suggesting that the gap between rural and urban areas reduced during that time.<sup>21</sup> For water, rural coverage increased from 29 to 56 per cent, and urban coverage increased from 87 to 96 per cent. While the trajectory suggests that the gap is also reducing, this is less true for water services than for sanitation.

43. The need for addressing disparity and the gap between urban-rural areas have been noted by the Government. The “State Policy on housing and public utilities”, approved by the Government on 18 March 2020, states that the Government acknowledges the disparity between rural and urban access to sanitation, and aims to provide water and sanitation to 90 per cent of the total population of Mongolia by 2030. It does not set targets for rural

<sup>19</sup> Jorlon, *A Campaign to Change Mongolia’s Toilets Led by “Local solutions”*, a Mongolian NGO, 2019.

<sup>20</sup> Government of Mongolia, *Annex to Government Resolution No. 94 of 2020, Government Policy on Public Housing and Utilities*, 2020.

<sup>21</sup> UNICEF/WHO JMP, “Progress on household drinking water, sanitation and hygiene I 2000-2017 2019, *Special Focus on Inequalities*”, 2019, 116.

populations.<sup>22</sup> The Special Rapporteur highlights that specific targets and plans should be in place to improve access to water and sanitation in rural areas.

**PROGRESS ON-GOING:** The Special Rapporteur notes the Government's effort to address the disparity in access to water and sanitation between rural and urban areas, notably, the new "State policy on housing and public utilities". He recommends that the Government prioritize reducing inequalities between urban and rural areas both through specific targets for the level of access to water and sanitation in rural areas, allocation of adequate resources to close the gap of inequalities and targeted policies.

## B. Recommendation on availability

**RECOMMENDATION 13:** Apply a human rights framework to water resources management, particularly by giving priority to water for personal and domestic use over other uses related to economic activities (A/HRC/39/55/Add.2, para. 82(h)).

44. As included in the country visit report, according to the 2013 UN-Water country brief for Mongolia, as of 2009, the industrial sector was responsible for the majority of water withdrawals (38 per cent) together with irrigated crops (23 per cent) and livestock (21 per cent). While mining and other industries may be a driver of economic growth, that may affect the priority of water allocation, which should be given to water used for essential personal and domestic uses for the whole population. As Mongolia faces challenges related to the quantity and quality of water resources, both surface and groundwater, further pressure on water allocation and socio-environmental conflicts were noted to be very likely (A/HRC/39/55/Add. 2, para. 36). The Special Rapporteur noted that the country's development goals should be implemented in a way that does not undermine water usage for human consumption and sanitation (A/HRC/39/55/Add. 2, para. 35).

45. The prioritization of water for domestic purposes is especially important in the context of widespread activity of mining and extractive industries in Mongolia. A 2019 report by the Asian Forum for Human Rights and Development found several instances of mining operations impacting the drinking water quality of local communities. For example, local herders had found many dead fish in the Onon River in Khentii Aimag - which local communities still rely on for drinking water - near gold mining plants where gold is washed with arsenic and cyanide, two highly toxic chemicals.<sup>23</sup> Drinking water and water for personal and domestic purposes must be prioritized, and human rights standards - including but not limited to water quality - must not be compromised as a result of the allocation of water resources to industrial activity. In his report on megaprojects, the Special Rapporteur outlines how conducting human rights impact assessments, in particular on water and sanitation, should take into account how effluents released by megaprojects impact on water quality and the existence of preventive measures to avoid contamination of water resources in the first place (A/74/197, para. 29).

46. One aspect of ensuring the availability of water for personal uses is to take stock of water resources in the country, in order to be able to create management plans and guarantee the full availability of water for drinking purposes. In its submission to the Special Rapporteur, the Government explained that between 2018 and 2019 hydrogeological mapping had been conducted in three Gobi region basins that covered a total 75.000 km<sup>2</sup> area, as well as in five *soums* of Gobi-Altai and Bayankhongor *aimag*, and five *soums* in

<sup>22</sup> Government of Mongolia, *Annex to Government Resolution No. 94 of 2020, Government Policy on Public Housing and Utilities*, 2020.

<sup>23</sup> Asian Forum for Human Rights and Development, *Our Land. Fact-finding mission report on the impacts of mining on defenders and environment in Khentii and Dornod Provinces*, Mongolia, 2019, 22.

Sukhbaatar and Dornogobi. This increased the area of the country covered by mapping by 4.8 per cent, to a total of 14.6 per cent in 2019.<sup>24</sup>

47. While the mapping of water resources is a positive step towards creating plans to ensure the availability of drinking water, it is important to ensure that access to water for personal and domestic purposes is prioritized. The Special Rapporteur notes that the amended Law on Water includes that the State Water Agency will be responsible for allocating water resources for different uses (Article 16<sup>1</sup>.4.3). However, it does not include mention of priorities for water use. The Special Rapporteur reminds the Government of the importance of prioritizing water for personal and domestic use. He also highlights the need to implement mechanisms guaranteeing that industrial operation does not deplete or pollute water sources and that sufficient water, of adequate quality is provided on an ongoing basis (A/74/197, paras. 20 and 29).

**PROGRESS LIMITED:** The Special Rapporteur congratulates the Government on its efforts to map water resources in the country, but strongly urges the Government to supplement this activity with strong safeguards for the prioritized use of water for domestic purposes. He recommends that the Government not only ensure the availability of water, but also take steps to ensure that other elements of the normative content of the human rights to water and sanitation, namely, quality, accessibility affordability and acceptability are not impacted by economic activities.

## C. Recommendation on quality

### 1. Recommendation on water quality control

**RECOMMENDATION 14:** On drinking water quality: Increase the number of annual samples in order to have a more comprehensive overview of drinking water quality and meet the international guidance on water quality control (A/HRC/39/55/Add.2, para. 82(i)(i)).

48. In line with the water safety plan, the General Agency for Specialized Inspection conducts water quality examinations in coordination with the Ministry of Health. In doing so, it collects 1,000 samples per year. The Special Rapporteur noted that a more substantial number of annual samples would help to provide a more comprehensive overview of the quality of drinking water in the country and would meet the international guidance on water quality control. Another issue that the Special Rapporteur highlighted is the lack of efficient resources to ensure timely reparation of situations where the quality of water does not meet the standards (A/HRC/39/55/Add. 2, para. 71).

49. The Special Rapporteur received no information regarding the number of annual samples taking to monitor water quality.

**NO ASSESSMENT CAN BE MADE DUE TO LACK OF INFORMATION:** The Special Rapporteur recommends that the Government give close attention to surveillance and control of drinking water quality. He reminds the Government that water quality is a key part of the human rights to water and sanitation, and that without monitoring, this cannot be ensured.

<sup>24</sup> Submission by the Government of Mongolia.



## 2. Recommendation on drinking water quality control

**RECOMMENDATION 15:** On drinking water quality: [...] Continue to take measures to improve drinking water quality and to identify alternative safe water sources for *soums* with drinking water services that do not meet the drinking water standard (A/HRC/39/55/Add.2, para. 82(i)(ii)).

50. The Special Rapporteur noted in his country visit report that the 2013 inspection of the quality and safety of drinking water showed that 22.8 per cent of samples had levels of bacteria above the allowed level and 5.2 per cent were contaminated by the intestinal bacillus group (A/HRC/39/55/Add.2, para. 65). Subsequently, in 2018, according to the Government's Social Indicator Sample Survey, 16 per cent of the population had moderate to high levels of bacterial contamination in their source water. This number grew to 19 per cent for households.<sup>25</sup>

51. The amended Law on Water outlines that the State Water Agency will be responsible for compiling water statistics, including water quality monitoring, and organizing water exploration and research. The Special Rapporteur looks forward to the Government's continued efforts to find additional water sources, but cautions that such efforts must be matched by a strengthened and coordinated water quality monitoring process and those efforts should be prioritized in areas where existing water sources are of unacceptable quality.

**PROGRESS LIMITED:** The Special Rapporteur looks forward the strengthening of the State Water Agency regarding water quality monitoring. He recommends that the State Water Agency review and strengthen the water quality monitoring process in conjunction with research efforts, to ensure a comprehensive effort to provide safe sources of water for citizens.

## 3. Recommendation on drinking water standard

**RECOMMENDATION 16:** On drinking water quality: [...] Take advantage of the current revision of national standards and adopt standards compatible with the most updated international guidelines and scientific knowledge in the field (A/HRC/39/55/Add.2, para. 82(i)(iii)).

52. In monitoring drinking water quality, it is critical that the most updated standard be used. The norm at the time of the country visit, from 2005, required an urgent update in line with the latest version of the WHO Guidelines for Drinking-water Quality. The Special Rapporteur encouraged the General Agency for Specialized Inspection to take advantage of the momentum of the discussion on the revision of the norm and to propose a standard compatible with the most updated international standards and scientific knowledge in this field (A/HRC/39/55/Add. 2, para. 73).

53. The new "Drinking water, Health necessity, quality, and safety evaluation MNS 0900:2018" was adopted in 2018 and updates its earlier version so that the standard is aligned with the fourth edition of the World Health Organization's (WHO) Guidelines for drinking-water quality.<sup>26</sup> Not all indicators are aligned, however, with Mongolian national standards allowing higher concentrations of Zinc and Aluminium than international standards.<sup>27</sup> While non-toxic, high concentrations of both indicators ingested over long periods of time can have negative impacts on health and as organoleptic parameters can impact the water acceptability.<sup>28</sup> These metals are often found in water that has been exposed to high levels of

<sup>25</sup> National Statistical Office of Mongolia, Social Indicator Sample Survey, Survey Findings Report, 2019, 281.

<sup>26</sup> Government of Mongolia, MNS 0900:2018, 2018.

<sup>27</sup> Tsogtbayer, O. Et al., Comparative physiochemical characteristic of drinking water from select endpoints and household storage containers in Ulaanbaatar City, Mongolia, 2018, *Cent Asian Med Sci.* 4(4), 264-271.

<sup>28</sup> World Health Organisation, WHO/HSE/WSH/10.01/13, 2010.

industrial waste. The Special Rapporteur recommends that the Government update the remaining indicators in order to develop a more comprehensive view of water quality in the country.

54. In 2019, the Central Water Monitoring Laboratory at the "Mongol-Water" State Department (conducting microbiological, chemical and heavy metal content analysis in water, and sewage water) updated and improved its operating policies and systems in accordance with the standard requirements of the "MNS ISO 17025: 2018 for Testing Capacity and Calibration Laboratory Capacity."<sup>29</sup> The Special Rapporteur commends the Government on updating its laboratory protocol for testing water quality, and looks forward to continuous improvement of the water quality testing process.

**GOOD PROGRESS:** The Special Rapporteur congratulates the Government on implementing this recommendation, and its comprehensive updates to water quality standards. He recommends the Government to also update the remaining indicators according to international guidelines. He encourages the Government to continue this effort in improving the procedural aspects of water quality monitoring, through data collection and analysis, and increased frequency and geographical coverage of testing.

#### 4. Recommendation on access to information about drinking water quality

**RECOMMENDATION 17:** On drinking water quality: [...] Establish a systematic procedure to provide individuals with information on the quality of the water they consume, using clear and accessible language (A/HRC/39/55/Add.2, para. 82(i)(iv)).

55. The right to information is a key aspect of the human right to water, and includes information on water quality. The Special Rapporteur encouraged the Government of Mongolia in his country visit report to establish a systematic procedure to provide individuals with information on the quality of water they consume, using clear and accessible language (A/HRC/39/55/Add. 2, para. 70).

56. The Government did not provide any information regarding efforts to communicate water quality to the public in its submission. The Special Rapporteur attempted to reach out to the population in Mongolia through social media to ask if they were aware of the quality of the water they drank, but received no response. It is crucial that the Government communicate with all the population, in a clear and accessible format, including those without access to technology or the internet. Efforts must also be made to reach the nomadic population.

**NO ASSESSMENT CAN BE MADE DUE TO LACK OF INFORMATION:** The Special Rapporteur found no information on any plans to ensure that information about drinking water quality has been made available to all members of the population, including the economically vulnerable, those who do not have access to technology, those who live in remote areas, and nomadic populations. He reiterates the importance of the Government prioritizing such measure.

### D. Recommendation on affordability

#### 1. Recommendation on water tariff system

**RECOMMENDATION 18:** Incorporate human rights standards and principles in the current reform initiative of the water tariff system (A/HRC/39/55/Add.2, para. 82(l)).

<sup>29</sup> Mongolia-Water, "Laboratory Profile", January 2019.

57. In Mongolia, the water tariff is determined by the ‘Law on fees for the use of natural resources’, the ‘Law on urban and rural water supply, sewerage and treatment’, and the ‘Decree on ecological and economical evaluation of water’. The governor of each *aimag* proposes tariffs and the Water Services Regulatory Commission assesses the tariff proposal in consultation with the Consumer Committee. At the time of the visit, the Government had agreed on a new methodology to set water tariffs and was implementing pilot projects to test and validate the new model (A/HRC/39/55/Add.2, para. 59). The Special Rapporteur outlined suggestions for this model, including ensuring that populations in situations of economic vulnerability were not unduly economically burdened, and recommended that the Government take into account non-monetary costs paid by populations in accessing water and sanitation (A/HRC/39/55/Add. 2, para. 60).

58. The United Nations Mongolia report of activities between 2017 and 2018 mentions working in close collaboration with the National Water Service Regulatory Commission, on introducing new methodology for setting water tariffs, which resulted in reducing water tariffs for *ger* area residents, thus improving their access to drinking water at a more affordable price.<sup>30</sup> The Water Services Regulation Council announced that a change in calculation for water tariffs had been made in January 2019, but did not outline the impact on affordability.<sup>31</sup>

59. The Special Rapporteur regrettably did not receive information detailing specifically how the tariff setting model changes impacted affordability. He reminds the Government that affordability is a crucial dimension of the normative content of the human rights to water and sanitation, and that states have a responsibility to ensure that the most economically vulnerable persons are able to access sufficient, safe water and sanitation (A/HRC/30/39, para. 86). While charging for water and sanitation can be necessary for ensuring the economic, social and environmental sustainability of services, States must find ways of guaranteeing affordability, especially for the most disadvantaged individuals and communities, while also ensuring overall sustainability of services (A/HRC/30/39, para. 2).

**NO ASSESSMENT CAN BE MADE DUE TO LACK OF INFORMATION:** The Special Rapporteur found no information on the update of the new tariff-setting model, and its impacts on affordability for groups in situations of economic vulnerability. He reiterates that affordability, focusing on such groups, must be a key principle of any tariff scheme.

## 2. Recommendation on disconnection of water services

**RECOMMENDATION 19:** Establish a clearer procedure on disconnections of water services (A/HRC/39/55/Add.2, para. 82(k)).

60. The Special Rapporteur noted in his report that the Mongolian law did not prohibit disconnections of water services and that disconnection cases were addressed in the administrative courts, as they were considered an issue between an individual and a private entity contracted by the Government to provide water connections (A/HRC/39/55/Add.2, para. 62).

61. No information has been made available to the Special Rapporteur regarding changes to the water service disconnection process. The Special Rapporteur wishes to remind the Government that disconnections due to inability to pay is a retrogressive measure, and constitutes a human rights violation (A/HRC/30/39, para. 33).

<sup>30</sup> UN Mongolia Country Results Report 2017-2018, 2019, 26.

<sup>31</sup> Mongolia Water Services Regulation Council, Tariffs and Payments for Water and Sewage Services Have Been Amended, 29 January 2019.

**NO ASSESSMENT CAN BE MADE DUE TO LACK OF INFORMATION:** The Special Rapporteur found no information about the steps it has taken to protect the population of Mongolia against disconnections of water services due to inability to pay. He highlights that the Government needs to take targeted steps to prohibit disconnections of people facing inability to pay water and sanitation bills.

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