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Consejo de Derechos Humanos

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Tema 3 de la agenda

**Promoción y protección de todos los derechos humanos,
civiles, políticos, económicos, sociales y culturales,
incluido el derecho al desarrollo**

Informe del Relator Especial sobre el derecho humano al agua potable y el saneamiento

Adición

Prioridades para el período 2014-2017*

Resumen

En el presente informe se reseñan las prioridades del Relator Especial sobre el derecho humano al agua potable y el saneamiento durante el período 2014-2017. El Relator Especial desea entablar un diálogo con interesados de todo el mundo e invitarlos a que aporten ideas y sugerencias que le permitirán desempeñar su mandato.

* El resumen se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo del resumen, se distribuye únicamente en el idioma en que se presentó.



Anexo

[Inglés únicamente]

Report of the Special Rapporteur on the human right to safe drinking water and sanitation

Priorities for the period 2014–2017

1. In the present report, the Special Rapporteur on the human right to safe drinking water and sanitation, Léo Heller, seeks to build on the legal and normative foundation of the human rights covered by his mandate, as described by the Committee on Economic, Social and Cultural Rights in its general comment No. 15 (2002) on the right to water and its 2010 statement on the right to sanitation (E/C.12/2010/1) and as affirmed by the General Assembly and the Human Rights Council in their respective resolutions since 2010. The Special Rapporteur takes into account the fact that Member States have affirmed that the human right to water and sanitation is derived from the right to an adequate standard of living guaranteed in the International Covenant on Economic, Social and Cultural Rights and other instruments of international human rights law. He also takes into account the fact that the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities and the International Covenant on Civil and Political Rights also encompass the realization of the human right to adequate water and sanitation services for all.

2. During the period 2008–2014, the former Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, made a great contribution to the development of the normative content of the human right to water and sanitation and its underlying principles, mainly from a legal point of view, particularly through reports submitted to the Human Rights Council and the General Assembly. In addition, she engaged with a wide range of parties, including Member States, service providers, regulators, international organizations, civil society representatives, other special procedures mandate holders and human rights mechanisms, and developed a handbook entitled “Realising the human rights to water and sanitation”,¹ a fundamental guide for the implementation of these rights in specific situations that should be promoted throughout the world.

3. The present report outlines the current Special Rapporteur’s priorities during the period 2014–2017, which are the result of his thoughts and initial consultations and dialogues with key stakeholders. The Special Rapporteur recognizes the dynamic and fast-changing environment in which we live, and the consequent need to be open to adapting his plan of activities. Thus, one of the objectives of the present document is to open dialogue with stakeholders worldwide and invite them to contribute ideas and suggestions that will enable him to carry out his mandate.

4. The Special Rapporteur, with his unique experience in public policy on water and sanitation, intends to prioritize efforts to translate existing legal principles and norms into public policies and implementation mechanisms that contribute to the realization of the human rights to water and sanitation. By defining and framing such human rights principles as the principles of progressive realization and non-retrogression, of the maximum use of State resources and of equality and non-discrimination, the Special Rapporteur intends to inform public policies on the operationalization of that right.

5. The underlying objective of the Special Rapporteur is to support all Member States in respecting, protecting and fulfilling the human rights to water and sanitation. This implies Member States’ adherence to both the normative content of these human rights (availability,

¹ See www.ohchr.org/EN/Issues/WaterAndSanitation/SRWWater/Pages/Handbook.aspx.

accessibility, quality, affordability and acceptability, including dignity and privacy), as well as human rights principles (non-discrimination and equality, access to information and transparency, participation, accountability, sustainability, and progressive realization and non-retrogression). The Special Rapporteur will assist States in meeting their human rights obligations, facing possible challenges or limitations in doing so and planning ways to implement sustainable measures at the international, national and local levels.

6. The Special Rapporteur will encourage States to progressively realize the human rights to water and sanitation and to overcome challenges to such realization. Some types of water and sanitation services may not be fully aligned with human rights obligations, especially for the most marginalized and disadvantaged and for individuals in particularly vulnerable situations or with particular needs, such as people living in poverty, refugees and migrants, homeless people, prisoners, persons with disabilities and persons with chronic diseases. The Special Rapporteur will bring attention to sanitation and hygiene, which otherwise tend to be overshadowed by water issues. Challenges to realizing the human rights to water and sanitation may also be exacerbated in certain environmental, political, economic or demographic situations. In accordance with the international human rights framework, States will be reminded of their obligation to improve access to water and sanitation as expeditiously and effectively as possible, and will be encouraged to use the maximum amount of resources available to them to realize the rights to water and sanitation.

7. Important progress in realizing these human rights can be made by guaranteeing them in constitutions and national legislation, as well as by developing holistic and comprehensive national policies, regulations and budgeting frameworks that are supported and not constrained by international commitments and agreements. To date, a small number of constitutions contain references to the right to water, and even fewer to the right to sanitation. While an increasing number of States explicitly include the human rights to water and sanitation in their legislation, the Special Rapporteur intends to assist Member States that lack such legal recognition in enshrining these rights and in creating mechanisms and procedures that allow access to information, participation and accountability for these rights. Explicit inclusion of the rights to water and sanitation in national legislation is essential to assist individuals and groups in claiming these rights and to hold Governments accountable. Given that the national legislations of some countries refer to the rights to water and sanitation while also maintaining other national policies or laws, in particular regarding economic activities, that undermine it, the Special Rapporteur will remind States of the importance of harmonizing their legal and policy frameworks to ensure the protection of these rights.

8. The Special Rapporteur intends to continue to collect information on good practices related to all aspects of realizing the rights to water and sanitation. This includes strengthening legislative, regulatory and policy frameworks, as well as financing, service provision and accountability systems, as measures that can be taken by States to realize those rights. Good practices can be found in the experiences of partnerships between not-for-profit water operators, such as those supported by the Global Water Operators Partnerships Alliance of the United Nations Human Settlements Programme. These mechanisms deserve increased visibility, as they harness collaboration to empower utilities and other stakeholders to contribute to the progressive realization of the human rights to water and sanitation. Numerous examples exist of utilities that uphold principles in water- and sanitation services, which often include transparency, inclusiveness and a culture of solidarity. The Special Rapporteur intends to identify lessons learned from successful initiatives around the world and to transfer the knowledge necessary for the formation of utilities that give priority to the realization of the human rights to water and sanitation, which is something to which all Member States and service providers must aspire.

9. The Special Rapporteur is especially interested in the formulation and implementation of the sustainable development goals to be adopted by the General Assembly in 2015 and, in particular, of proposed goal 6, which is to ensure the availability and sustainable management of water and sanitation for all. Furthermore, the human rights to water and sanitation are also essential, among others, to several other proposed goals, including goal 1, to end poverty in all

its forms everywhere; goal 3, to ensure healthy lives and promote well-being for all at all ages; goal 4, to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all; goal 5, to achieve gender equality and empower all women and girls; goal 10, to reduce inequality within and among countries; and goal 11, to make cities and human settlements inclusive, safe, resilient and sustainable. The Special Rapporteur intends to provide support and advice to Member States in formulating and improving the frameworks to monitor the progressive elimination of inequalities and emphasize participatory processes at national and local levels for the identification of disadvantaged groups. He will specifically address the challenge of monitoring gender inequality, as well as other dimensions of discrimination relating to access to water and sanitation. The Special Rapporteur will also assist in developing and implementing an accountability framework for the water- and sanitation-related goals and targets, in line with human rights obligations.

10. International cooperation and assistance provided by States, United Nations agencies, international development partners and donor agencies are important in supporting States to realize the human rights to water and sanitation. Throughout his mandate, the Special Rapporteur will attempt to reinforce the need to incorporate the content and principles of those rights into State policies and programmes. Furthermore, he will attempt 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. The goal for States is to implement the sustainable development goals in such a way as to prioritize the provision of water and sanitation services to its most disadvantaged populations. Indeed, the faster the gap closes between the most advantaged and the most disadvantaged groups and individuals, the closer States will come to accomplishing their goals with respect to promoting health and gender equality, eliminating poverty and creating inclusive, safe, resilient and sustainable cities, among others.

11. The human rights to water and sanitation, like all human rights, are indivisible and interrelated to all other human rights, including the rights to life, the highest attainable standard of health, adequate housing and food, education and the enjoyment of a safe and healthy environment. The Special Rapporteur intends to coordinate his activities with other special procedures mandate holders and treaty bodies in a joint effort to protect and promote all human rights. Where a violation of the human rights to water and sanitation is alleged, the Special Rapporteur will, as a matter of priority, hold dialogues with the States and entities concerned. When applicable, the Special Rapporteur will address the allegations together with other mandate holders, as violations of human rights often occur in a multidimensional context.

12. Special procedures mandate holders receive complaints about alleged human rights violations and issue letters of allegation and urgent appeals that, when the situation warrants it, are followed by public statements. The Special Rapporteur intends to assess, as a matter of priority, whether complaints and allegations constitute a violation of the human rights to water and sanitation, to engage with States to ask for clarification about the existence of violations and to recommend measures for their remediation. Furthermore, he will reach out to people around the world, especially the most marginalized and those who lack access to communication tools like the Internet and media outlets, in order to raise awareness about the right to lodge complaints with human rights mechanisms, including the Special Rapporteur, and to assist those who are deliberately hampered from lodging such complaints. Cooperation with international and national non-governmental organizations and other non-State actors whose mandate is associated with the human rights to water and sanitation will be a powerful way to reach this objective. In this respect, the Special Rapporteur intends to establish communications tools and strategies aimed at reaching those who are most in need and at raising awareness of the human rights to water and sanitation.

13. The Special Rapporteur intends to collaborate with the academic community so as to encourage the production and continuation of research from a variety of disciplines that can increase understanding of, identify and assist in the realization of the human rights to water and

sanitation. Water permeates all dimensions of human life, which is why a range of expertise can contribute to advancing studies oriented towards the realization of these rights. Solutions to situations of inadequate access to water and sanitation have been criticized as being treated in technocratic ways. Coordinating the mobilization of multiple research fields favours the identification of associations between technical solutions in the scope of water supply and sanitation services, different management structures, institutional structures, financial considerations, power relations, social complexities and other constraints, and the realization of the rights. The Special Rapporteur is also interested in models for assessing the realization of these human rights.

14. In cooperation with UN-Water, the Special Rapporteur intends to follow-up on the missions undertaken and the recommendations made during the period 2008–2014, with a view to ensuring long-term engagement with various stakeholders, developing more in-depth assessments and potentially making a greater impact than is possible with a one-off visit. In 2015, country missions to Botswana and Tajikistan have been confirmed. In general, the Special Rapporteur intends to give long-deserved attention to regions that have seldom been visited by this or other special procedures mandate holders, remaining attentive to States' particular situations. For instance, he will try to address the human rights situation in countries that have been facing crises, be they related to economic or environmental issues or to conflict.

15. The Special Rapporteur will develop thematic reports, to be presented to the Human Rights Council and the General Assembly, that focus on the main challenges for the realization of the human rights to water and sanitation. He intends to provide in-depth assessments, reflections and recommendations to concerned stakeholders around the world on the implementation of those rights. The reports he has prepared in 2015 are examples of this approach. They present a critical assessment and recommendations regarding mechanisms to ensure affordability (the subject of the report submitted to the Human Rights Council (A/HRC/30/39)) and the way in which one may associate types of services with the realization of human rights (the subject of the report to be submitted to the General Assembly at its the seventieth session). Indeed, the Special Rapporteur's thorough analysis of key themes, principles and practices will serve as a basis for establishing an effective dialogue with multiple stakeholders on essential issues related to eliminating inequalities in access and realizing the human rights to water and sanitation. The Special Rapporteur intends to address gender equality in his 2016 reports to the Human Rights Council and the General Assembly. He seeks to explore how women and girls are affected by the inadequate provision of water, sanitation and hygiene, including menstrual hygiene, and will include recommendations on how to eliminate and monitor these inequalities. Future reports will focus on the following specific themes or cross-cutting issues, among others: different aspects of public policies (regulation, planning, legislation, service management and financing); the impact of crises and emergencies on inequalities in access to water and sanitation; accountability of Member States in the realization of those rights; hygiene as an inextricable component of the rights to water and sanitation; and capacity-building for the progressive realization of those rights.

16. The Special Rapporteur hopes that the priorities outlined in the present report will elicit suggestions, including on the themes of future reports, from Member States, civil society, international organizations, other mandate holders, service providers and regulators, and concerned individuals and groups. Moreover, the Special Rapporteur will make concerted efforts to obtain information from and exchange views with diverse stakeholders by convening consultations and designing and distributing questionnaires to Member States. He considers it of paramount importance that his mandate be used as an opportunity to channel the extensive range of expertise and experiences that already exists around the world into the common, universal goal of realizing the human rights to water and sanitation for all.