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## الجمعية العامة



## مجلس حقوق الإنسان

## الدورة الثانية والأربعون

٩-٢٧ أيلول/سبتمبر ٢٠١٩

البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

## زيارة إلى ليسوتو

تقرير المقرر الخاص المعني بحقوق الإنسان في الحصول على مياه الشرب المأمونة وخدمات الصرف الصحي\*

موجز

عملاً بقرار مجلس حقوق الإنسان ١٠/٣٣، قام المقرر الخاص المعني بحقوق الإنسان في الحصول على مياه الشرب المأمونة وخدمات الصرف الصحي، ليو هيلر، بزيارة رسمية إلى ليسوتو في الفترة من ٤ إلى ١٥ شباط/فبراير ٢٠١٩، بدعوة من الحكومة.

ويبحث المقرر الخاص، في التقرير، مسألة وصول سكان ليسوتو إلى المياه وخدمات الصرف الصحي، مع إيلاء اهتمام خاص للتفاوتات بين المناطق الجغرافية المختلفة في البلاد (الأراضي المنخفضة والمرتفعات). وخلص المقرر الخاص، خلال زيارته، إلى أن نقص المياه وخدمات الصرف الصحي الكافية يشكل مكوناً رئيسياً إضافياً من مكونات الهشاشة إضافة إلى أوجه الهشاشة الحالية، مثل الفقر والبطالة وارتفاع درجة انعدام المساواة وانتشار فيروس نقص المناعة البشرية/الإيدز ويتم الأطفال. ويوضح، طوال التقرير، النتائج التي توصل إليها استناداً إلى المحتوى المعياري لحقوق الإنسان في المياه وخدمات الصرف الصحي (مدى توافرها، وسهولة الوصول إليها، وجودتها، والقدرة على تحمل تكاليفها، ومقبوليتها)، كما يقدم إرشادات لحكومة ليسوتو لاتخاذ إجراءات لتحسين الوضع. وختاماً، يشدد المقرر الخاص على أن اعتماد نهج شامل لإعمال حقوق الإنسان في المياه والصرف الصحي سيوجه ليسوتو إلى التركيز على السكان الأكثر هشاشة و"عدم ترك أحد خلف الركب"، وفقاً لالتزامها بخطة التنمية المستدامة لعام ٢٠٣٠.

\* يعمم موجز التقرير بجميع اللغات الرسمية. أما التقرير نفسه، المرفق بهذا الموجز، فيُعَمَّم باللغة التي قُدِّمَ بها فقط.



الرجاء إعادة الاستعمال

GE.19-11505(A)



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## Annex

# Report of the Special Rapporteur on the human rights to safe drinking water and sanitation on his visit to Lesotho

## I. Introduction

1. Pursuant to Human Rights Council resolution 33/10, the Special Rapporteur on the human rights to safe drinking water and sanitation undertook an official visit to Lesotho from 4 to 15 February 2019, at the invitation of the Government.

2. During his two-week visit, the Special Rapporteur met representatives of a number of tiers of the Government,<sup>1</sup> international organizations,<sup>2</sup> international development funders<sup>3</sup> and civil society, as well as a number of residents. He visited villages, towns, schools, health clinics, a church and correctional services in 6 of the 10 districts of Lesotho (Mafeteng, Maseru, Mphahle's Hoek, Mokhotlong, Thaba-Tseka and Quthing). The Special Rapporteur thanks the Government for the invitation and the organization of his visit. He would especially like to thank those who welcomed him into their homes and took the time to discuss the situation of water and sanitation with him. He also expresses appreciation to the office of the United Nations Resident Coordinator in Lesotho for facilitating the visit.

## II. Water and sanitation in Lesotho

### A. General context

3. Lesotho is a mountainous country, with the highest mountain at approximately 3,400 metres above sea level and no land that falls below 1,400 metres above sea level. It has a surface area of approximately 30,000 km<sup>2</sup>. Three quarters of the land is highlands with severe winter seasons and heavy snowfalls that often make it difficult for the population to access basic services such as water and sanitation.

4. The living standards of the people of Lesotho, the Basotho, depend on whether they live in the lowlands, the foothills, the highlands or the Senqu river valley. Approximately 76 per cent of the population of more than 2 million reside in the rural areas while the rest are located in urban areas, mostly in the lowlands. As of 2014, the wealthiest households were concentrated in the urban areas and in the lowlands, while those in the lowest wealth quintile were living mostly in the mountains, the Senqu valley and the foothills.<sup>4</sup> The Special Rapporteur travelled to the western highlands driving on unpaved roads through the districts of Thaba-Tseka and Mokhotlong, the two most impoverished districts in Lesotho. From interviews and visits to households, he could see the difference in the standard of living when compared to other districts, in particular how the population accessed water and sanitation.

<sup>1</sup> Ministry of Water, Ministry of Foreign Affairs and International Relations, Ministry of Health, Ministry of Education and Training, Ministry of Justice, Human Rights and Correctional Services, Ministry of Law and Constitutional Affairs, Ministry of Gender and Youth, Sports and Recreation, Ministry of Social Development, Ministry of Mining and Ministry of Energy. The Special Rapporteur also met with the District Administrators of Mokhotlong and Mphahle's Hoek.

<sup>2</sup> The United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP) and the World Health Organization (WHO).

<sup>3</sup> The European Union, the South African High Commission and the German development agency GIZ.

<sup>4</sup> See Lesotho Ministry of Health and ICF International, *Lesotho Demographic and Health Survey 2014* (2016).

5. In Lesotho, where over 1 million people are categorized as poor, water, sanitation and hygiene lie at the centre of the poverty cycle.<sup>5</sup> The World Bank estimates for 2017 suggest that 51.8 per cent of the population is still trapped under the poverty line of \$1.90 a day. In search of jobs and better living conditions, there has been an increase in rural-urban migration, which has resulted in a significant rise in the urban population over the past 35 years, from 10.5 per cent of the total population to 23.7 per cent in 2011. Poverty, unemployment, a high degree of inequality and a high prevalence of HIV/AIDS and of orphans are some of the existing vulnerabilities of the people of Lesotho. The lack of adequate water and sanitation services constitutes a key additional layer of vulnerability.

## **B. Water and sanitation: a bottleneck for human development**

6. The Special Rapporteur finds that water, sanitation and hygiene are a bottleneck that holds the Basotho back from improving their lives, making autonomous choices on their way of living and enlarging their freedom. In Lesotho, water, sanitation and hygiene are a driver and multiplier of vulnerability that lead to negative impacts on human development. Indeed, the Human Development Index for Lesotho is estimated at 0.520 for 2017, which falls into the low human development category, positioning it at 159th out of 189 countries.<sup>6</sup> The lives of many Basotho are impacted when they live without, or with only precarious, access to water, toilet facilities and hygienic products. The Special Rapporteur stresses that ensuring access to water and sanitation is a cross-cutting issue that is a prerequisite for an adequate standard of living.

7. The Special Rapporteur illustrates some of these elements through the story of a fictional character, Palesa, a Mosotho girl living in the mountainous rural area of Lesotho. Palesa's mother was HIV-positive and had to take antiretroviral medication to protect Palesa from mother-to-child transmission. As she needed clean water to take the medication, Palesa's pregnant mother had to walk long distances to fetch water, carrying heavy buckets and putting the pregnancy at risk. As a newborn, Palesa consumed a large share of the water used by the family for bathing, cooking and washing diapers and her mother had to take on the burden of collecting additional water. At the age of 5, Palesa's parents could not afford access to clean water and hygiene products and Palesa suffered from diarrhoea and stunting. There was no toilet at Palesa's preschool and the children defecated in the open where all their peers could see each other half-naked. When Palesa started primary school, she found it hard to use the large toilet seats made for adults and to urinate and defecate in a closed toilet, which she was not used to. Sadly, when Palesa was 15 years old, her parents passed away and she became the head of the household. When Palesa was menstruating, she could not go to school because she could not afford to buy sanitary pads and had to use cloths that smelt and had to be changed regularly. She also missed school as she had to go and fetch water. It was hard for Palesa to walk on the rocky roads for long distances and she was scared. One of her friends who used to collect water with her cried for days after a frightening man did terrible things to her. Another friend got married and stopped coming to school.

8. The fictional character, Palesa's mother, represents the 25 per cent of the population aged between 15 and 49 who are living with HIV/AIDS in Lesotho. In 2017, the country ranked second in the world in terms of HIV/AIDS prevalence.<sup>7</sup> Field studies have revealed that the treatment of symptoms for people living with HIV/AIDS requires a significant additional amount of clean drinking water and that access to water is essential for recovery and psychosocial well-being.<sup>8</sup> Further, the HIV/AIDS pandemic is one of the contributing factors to the increase in the number of orphans: as of 2016, 210,712 Basotho children aged from 0 to 17 had lost one or both biological parents.<sup>9</sup> Orphans who are the breadwinners of

<sup>5</sup> See United Nations country team, "Lesotho country analysis working document, final draft" (September 2017).

<sup>6</sup> See UNDP, *Human Development Indices and Indicators: 2018 Statistical Update*.

<sup>7</sup> See United Nations country team, "Lesotho country analysis working document, final draft".

<sup>8</sup> See B.N. Ngwenya and D.L. Kgathi, "HIV/AIDS and access to water: a case study of home-based care in Ngamiland, Botswana", *Physics and Chemistry of the Earth*, vol. 31, No. 15–16 (2006).

<sup>9</sup> Lesotho Bureau of Statistics, 2016 census summary.

their family become responsible for providing basic services for their families, including water and sanitation.

9. Safe drinking water and sanitation are fundamental for the health of the population of Lesotho. The prevalence of diarrhoea is higher for children living in households with unimproved toilets than for children living in households with improved toilets that are not shared. Similarly, the prevalence of diarrhoea is higher for children in households in which the source of drinking water is unimproved compared with those in households with an improved source of drinking water.<sup>10</sup> In a rural village about 20 kilometres away from Mokhotlong, the villagers testified that several of them had suffered from diarrhoea in early 2019. Further, a lack of safe drinking water and sanitation, combined with related diseases, increases the likelihood of children suffering from stunting. In Lesotho, approximately 33 per cent of children suffer from stunting and with their immune systems not fully developed, they are often less able to respond to water-related infections.<sup>11</sup>

10. Palesa represents many Basotho girls who spend their time walking and queuing to fetch water instead of going to school, interacting with peers, taking time to study or learn skills that will eventually shape the basis of their livelihood. In several rural villages that the Special Rapporteur visited, many explained that as a default common practice, girls did not go to school when menstruating. When children and women are provided with basic services, including safe drinking water and sanitation, their health, educational advancement and overall well-being are greatly influenced. Furthermore, they become less vulnerable to the risk of harassment, threats and sexual violence they face when fetching water at some distance or using sanitation facilities outside the home.

### III. Legal, policy and institutional framework

#### A. Legal framework

11. Lesotho is a party to several international human rights treaties including the International Covenant on Economic, Social and Cultural Rights, which stipulates the right to an adequate standard of living, including the rights to water and sanitation. Lesotho has also supported General Assembly resolutions that recognize the human rights to water and to sanitation as two explicit but interlinked rights.<sup>12</sup> Furthermore, Lesotho is a party to the African Charter on Human and People's Rights, the African Charter on the Rights and Welfare of the Child and the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, which stipulate rights related to an adequate standard of living and the principle of non-discrimination.

12. In Lesotho, international human rights treaties are not self-executing and legislation needs to be enacted to give a treaty the force of law domestically. The Government may implement its human rights obligations by appropriate means, including legislative, administrative, financial, educational and social measures.<sup>13</sup> However, the fact that the international obligations of Lesotho have yet to be integrated into national law does not justify the lack of implementation of those obligations. Furthermore, the Special Rapporteur reiterates that in many instances, legislation is highly desirable and in some cases indispensable.<sup>14</sup>

13. The Constitution of Lesotho does not explicitly stipulate the human rights to water and sanitation. Instead, those rights can be inferred from article 36 on the protection of the environment. Additionally, water and sanitation as a key determinant of health are closely linked to article 27 of the Constitution and the principle of non-discrimination is highlighted in article 26. The legal application of the human rights to water and sanitation,

<sup>10</sup> Lesotho Ministry of Health and ICF International, *Lesotho Demographic and Health Survey 2014*.

<sup>11</sup> World Food Programme, "Country programme-Lesotho (2013–2017). Standard project report 2016".

<sup>12</sup> See, for example, resolution 72/178, for which Lesotho voted.

<sup>13</sup> See Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990) on the nature of States parties' obligations, paras. 4–6.

<sup>14</sup> *Ibid.*, para. 3.

without explicit constitutional recognition, would therefore require interpretation by judicial bodies and policymakers, which can result in inconsistencies and the implementation of only selected elements of their normative content.

14. Legislation on water and sanitation is equally insufficient in incorporating the framework of the human rights to water and sanitation. The Water Act (2008) provides rules for the management, protection, conservation, development and sustainable utilization of water resources. Article 3 of the Act establishes the principle of “equitable distribution of water and sanitation services”, a “public participatory approach” and the “integration of environmental and social issues into water resources management, among them HIV/AIDS and gender mainstreaming”. However, the Act does not address the entire set of the normative content and principles of the human rights to water and sanitation. For instance, it does not address the issues of affordability and the prohibition of disconnection owing to incapacity to pay, or the principles of equality and non-discrimination, the right to information, the right to participation and accountability. Most importantly, the legislation does not explicitly mention the human rights to water and sanitation and State obligations in that regard.

15. The human rights to water and sanitation are not justiciable for the people of Lesotho. The Special Rapporteur stresses that having a national law explicitly recognizing the human rights to water and sanitation is key to realizing those rights, in particular ensuring their justiciability. It is crucial that national legislation provide a clear guarantee to individuals and groups who are alleged victims of a violation of their rights to water and sanitation so that they can file a complaint before a judicial body, request legal remedies and have those remedies enforced. Justiciability of the human rights to water and sanitation is an essential precondition to ensuring the effectiveness of judicial mechanisms as part of the answerability and enforcement dimensions of accountability (see A/73/162).

## **B. Policy framework**

16. The human rights to water and sanitation fall under State policy in Lesotho, which has undertaken several planning exercises to guide its policies. The Special Rapporteur highlights three of those plans as examples of positive achievements. Firstly, the National Vision 2020 was published in 2004 and aimed at all Basotho having access to safe drinking water and basic sanitation. Vision 2020 incorporates strategic actions to increase the provision of clean, safe drinking water and proper sanitation. It also outlines targets for increased water and sanitation coverage: 93 per cent by 2010, 97 per cent by 2016 and 100 per cent by 2020.

17. Another policy is the draft second national strategic development plan covering the period from 2019 to 2023. At the time of the submission of the present report, the draft plan had not been formally adopted. In the draft plan, it is noted that “at the apex of Lesotho’s development agenda is the alleviation of poverty through a sound programmatic approach aimed at increasing access to water, improved sanitation and hygiene”. The strategic objectives of the plan include increasing access to water, sanitation and hygiene, including ensuring the affordability of water and sanitation services and strengthening regulation of those services.

18. Finally, the water and sanitation policy of 2007 aimed to promote the provision of an adequate and sustainable supply of potable water and sanitation services to the whole population. Further, the policy explicitly elaborates on how Lesotho conceptualizes the issue of affordability, accessibility, availability and quality of water. However, in 2013, as part of the information compiled for the second cycle of the universal periodic review, the submission from the United Nations country team indicated that “the National Water and Sanitation Policy is in place, but the challenge remains actual implementation. The number of households with improved sanitation is on-track while slow progress is recorded on the number of households with improved water”.<sup>15</sup>

<sup>15</sup> Available from [www.ohchr.org/EN/HRBodies/UPR/Pages/UPRLSUNContributionsS21.aspx](http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRLSUNContributionsS21.aspx).

19. While these initiatives are commendable, the Special Rapporteur emphasizes that there is a need to ensure cohesion and consistency throughout the different instruments. One aspect is the need to align them with the Sustainable Development Goals. In regard to the water and sanitation sector, targets 6.1 and 6.2 of Goal 6 provide new definitions for the level of access to services, “safely managed services”, and the target of universal access by 2030. Another necessary element that needs to be incorporated is the framework of the human rights to water and sanitation, which would guide the Government to identify its highest priorities in water and sanitation, including key issues, for instance for those living in the most vulnerable situations, equality and non-discrimination and access to information. The Special Rapporteur furthermore notes that the political instability in past decades in Lesotho, marked by alleged coups or attempted coups, have negatively impacted the continuity of implementation of such policies. Public policies with their lack of binding effect, coupled with political instability, discontinuity and the failure to guarantee their implementation, is a concern that requires further attention.

## C. Institutional framework

20. The Special Rapporteur wishes to highlight some positive developments of the institutional structure relating to water and sanitation, notably the dedicated Ministry of Water, established in 2015, and the related institutions under its purview described below.

### 1. Coordination

21. The Water Commission is an interesting development in the institutional framework of the water and sanitation sector in Lesotho. As part of the Ministry of Water, the Commission has a mandate to develop, update and monitor the implementation of water policy, water and sanitation legislation and strategy. A positive achievement worth highlighting is its coordination role. The Commission convenes a quarterly water sector coordination meeting, which is open to all ministries, civil society organizations, international funders and international organizations. The platform is used by the Ministry of Water to discuss plans, progress made and ongoing projects and programmes. Such meetings are important for streamlining and coordinating the work of all the entities that contribute to the progress of water and sanitation provisions, so that they work in a harmonized manner rather than in isolation. It is also an opportunity to monitor how the goals of the various plans are being achieved and identify related challenges.

22. At the same time, the Special Rapporteur sees the one-day coordination meetings that cover six items in its broad agenda as a huge challenge that will likely result in a limitation to the participatory process. Moreover, it is crucial that the coordination role of the Water Commission and the coordination meetings are as transparent as possible. The Special Rapporteur recommends that the Commission be mandated to champion the human rights to water and sanitation across the bodies of the Ministry of Water and other governmental entities. That way, it will function as an oversight mechanism for all related government entities to be compliant with the human rights to water and sanitation in their work.

### 2. Regulation

23. The Lesotho Electricity and Water Authority was established to regulate the electricity supply industry and the urban water supply and sewerage services subsector. The Lesotho Electricity and Water Authority Act 2011 gives the Authority sole and exclusive power to regulate water and sanitation services, the fees and tariffs charged and the standards of service to be provided by all water and sewerage services providers.<sup>16</sup>

24. The Electricity and Water Authority approves tariffs based on proposals from the utilities for adjustment, standards and regulations for transmission, distribution, supply, import and export. In setting tariffs and charges for water and sanitation services, the

<sup>16</sup> The Lesotho Electricity Authority Act, 2002 was amended by the Lesotho Electricity Authority (Amendment) Act 2011.

Authority takes into account the affordability of services and any government policies applicable to subsidies. The Special Rapporteur notes that in practice the Authority focuses predominately on economic regulation and the quality of service regulation, including asset management planning and cost-recovery concerns. For Lesotho to fulfil its human rights obligation, it is essential that the human rights to water and sanitation as a whole are reflected in the regulatory norms and activities of the Authority and that affordability for households is taken into consideration as a priority (A/HRC/36/45, para. 25).

### 3. Provision

25. In urban and peri-urban areas, the parastatal Water and Sewerage Company has the mandate for the provision of water and sewerage services and is responsible for owning, operating and maintaining water and sanitation systems in those areas. In rural areas, the Department of Rural Water Supply and Department of Water Affairs, part of the Ministry of Water, are responsible for water supply. The Department of Water Affairs oversees the process of drilling boreholes or digging wells, which constitutes the main source of water in rural areas, particularly in the lowlands. The Department of Rural Water Supply, with 10 district offices across the country, is responsible for overseeing water and sanitation services in rural areas that are provided through community-managed water schemes and for support to on-site sanitation. The actual provision of water and sanitation services in the rural areas, as well as the operation and maintenance of the system, is the responsibility of a local authority established under the Local Government Act 1997.

### 4. International development actors

26. Lesotho is highly reliant on international development, particularly in the water and sanitation sector. Both international development funders and their counterpart entities in the Government that implement projects have human rights obligations and the responsibility to guarantee that the whole population of Lesotho benefits from those projects without discrimination. International human rights law defines the obligations of States with respect to taking appropriate measures, including through international assistance and cooperation, to the maximum of their available resources, towards the full realization of economic, social and cultural rights. In that regard, the Special Rapporteur has highlighted the human rights obligations and the responsibility of international funders, implementing entities as well as partner States (see A/72/127).

27. The lowlands water supply scheme, largely funded by the European Union, the World Bank and the European Investment Bank, aims to ensure a long-term, reliable water supply for domestic and industrial purposes in Maseru and other lowland districts, and is planned to provide more than 1.2 million people with access to clean water by 2020. The Lowlands Water Supply Scheme Unit is the body responsible for coordinating and implementing the scheme and has the role of addressing the chronic shortage of potable water supply to the lowlands area of the country for socioeconomic development.

28. The Lesotho Highlands Development Authority and the Lesotho Highlands Water Commission are relevant for the implementation of the highlands water project, which is the largest binational infrastructure project between Lesotho and South Africa. The project involves the construction of an intricate network of tunnels and dams to divert water from Lesotho to South Africa. The project is based on the Treaty on the Lesotho Highlands Water Project, signed in 1986 by both Governments, and sets out the governance structures required to implement the Lesotho highlands water project on their behalf.

29. The Lesotho Highlands Development Authority was set up with the responsibility of implementing, operating and maintaining the components of the highlands water project in Lesotho, including the social, environmental and economic developments of the project, such as resettlement, compensation and the supply of water to resettled villages. The Authority is responsible for overall implementation of project works, such as dams, tunnels, power stations and infrastructure on the territory of Lesotho and reports to the Lesotho Highlands Water Commission, a binational body representing the Governments of Lesotho and South Africa. The Commission is responsible and accountable for the project, acts on behalf of and advises the two Governments.

30. The Metolong Authority was established to implement the Metolong dam and water supply programme that is part of the Lesotho highlands water project and is aimed at increasing access to water and improving the reliability of the water supply to urban and peri-urban areas in Maseru and the neighbouring towns of Roma, Morija, Mazenod and Teyateyaneng.

31. The Special Rapporteur emphasizes that implementing entities can use the normative content of the human rights to water and sanitation and human rights principles which offer guidance on who and what to prioritize in planning and programming international cooperation, as well as on how policies, programmes and interventions should take place.

## IV. Human rights to water and sanitation in Lesotho

32. During his two-week visit, the Special Rapporteur undertook an assessment of the access to water and sanitation services from a human rights perspective, which differs from the traditional technical assessment. His focus was neither on figures, numbers or averages, nor how wastewater is treated or the length and diameters of water pipes, but on how the outcomes of those elements impact the rights of the Basotho people and particularly those who are in the most vulnerable situations. The progressive realization of the human rights to water and sanitation cannot be assessed only on the basis of statistical indicators alone. The Special Rapporteur stresses that statistical information, economic indicators, benchmarks and timelines remain important in assessing progress, but that they must be constantly complemented by information obtained by engaging rights holders.

### A. Availability

33. Availability refers to the existence of water and sanitation facilities, the quantity of safe water available for domestic and personal use, and the necessary availability of water resources for those uses. Such uses include water for drinking and personal hygiene and for personal and domestic uses, including cooking, the preparation of food, laundry and cleaning.<sup>17</sup> As for sanitation, a sufficient number of sanitation facilities need to be available. The necessary infrastructure also has to be put in place to ensure the availability of services (A/70/203, para. 7).

34. The Water Act (art. 5 (2)) specifies the priority for domestic usage of water. In the case of conflicting water use and if the water is insufficient to cater for other uses, domestic use shall prevail and be given first preference over other uses. The water and sanitation policy of 2007 also states that the Government should “ensure access to a sustainable supply of potable water and basic sanitation services for all Basotho”.

#### 1. Availability of water facilities

35. In the highlands, the Basotho rely mostly on gravity-fed systems from springs in the mountains, which are connected by pipes to public standpipes for community members to collect water. In the plateau and the lowlands in the west, the population use springs, boreholes and rivers, which generally flow in deep gorges.

36. In urban areas of Lesotho, several projects have been implemented to increase the availability of water infrastructure. For instance, the construction of the Metolong Dam and the associated infrastructure to supply water for domestic and industrial use began in 2008 focusing on the supply of bulk water to town centres. As reported, over 500,000 people are benefiting from this programme.<sup>18</sup> Furthermore, the lowlands water supply scheme, currently in preparation, is designed to significantly improve water security for a large

<sup>17</sup> See Committee on Economic, Social and Cultural Rights, general comment No. 15 (2002) on the right to water, para. 12.

<sup>18</sup> See World Bank, “Water for Lesotho’s lowlands: unveiling the Metolong Dam”, available from [www.worldbank.org/en/news/feature/2015/12/18/water-for-lesothos-lowlands-unveiling-the-metolong-dam](http://www.worldbank.org/en/news/feature/2015/12/18/water-for-lesothos-lowlands-unveiling-the-metolong-dam).

population in the lowlands through blended financing composed of grants and loans. While the project is certainly needed to improve water security for the population in densely populated areas, it is unclear what impact the obligation of the Government to pay for the loans will have on the financial sustainability of the water sector.

37. The Government has made continuous efforts to provide basic services in the rural areas and to address inequalities between urban and rural areas. However, challenges remain regarding the availability of water sources, particularly in the lowlands, where boreholes are the main source of water. The topography and geology, such as the rocky soil, pose a challenge when drilling boreholes. Furthermore, the lowered water levels derived from climate change pose a further challenge, the implication being that boreholes would need to be drilled deeper. The Special Rapporteur notes the lack of human capacity and financial resources of the Department of Water Affairs that is charged with drilling boreholes and digging wells. He also notes that improvements could be made if the district offices of the Department set the priorities to provide water services. Those priorities should not be based on a “first-come-first-served” basis and should not be subject to distortions, influenced by “political interests”.

## 2. Continuous availability

38. The Special Rapporteur observed several cases of discontinuous water services. In the past 10 years, Lesotho has experienced successive climate shocks, such as recurrent droughts and floods, which have negatively impacted communities and the livelihoods of the people, access to clean water being one of the more salient impacts. During his visit, there were several days when it rained, but the Special Rapporteur could also see a reduced amount of water in rivers, streams and springs. In particular, when he took the road towards Quthing, he could see that some parts of the Senqu river had dried up and the bottom of the river was visible in several spots.

39. The reliance on spring water and fresh water, coupled with the recurrent droughts, has had a significant impact on the availability of water. The lack of water availability during periods of drought has also forced Basotho living in rural areas to fetch water from unprotected sources, such as natural wells also used by animals. In some cases, both human and animals are competing for water from the same source. Residents in a village in the district of Thaba-Tseka relied on several water sources: rainwater if there is any rain, dug wells that were almost dried up, or a public tap which did not provide any water. As a daily chore, women wake up early to wait for their turn to collect unclean and unsafe water from the well. The Special Rapporteur visited the well around which the women were sitting and they explained that: “this is how we sit and wait for the water to fill up. We come here sometimes from 4 a.m. until noon”.

40. Scarcity of water sources means that girls and women, who are usually responsible for collecting water, have to travel a longer distance in search of it. Reduced water flow has led to prolonged waiting times at water points, which has exposed women, girls and boys to increased risk of gender-based violence, including assault and rape. According to a study carried out by the United Nations Population Fund (UNFPA), the proportion of households that had to walk more than 2 km to a water source more nearly tripled, from 5.8 per cent to 15.9 per cent, in the period before and during the El Niño phenomenon in 2015–2016.<sup>19</sup> The lack of access to water fuelled gender-based violence, particularly in rural communities, and by extension was connected to a chain of events, including child marriages, as part of coping strategies in the face of the drought. The Special Rapporteur reiterates the concern raised by the Committee on the Rights of the Child in its concluding observations at the risk of physical and sexual violence that children, and girls in particular, are exposed to when collecting water, bathing or using toilets at night (CRC/C/LSO/CO/2, para. 30).

<sup>19</sup> See UNFPA, “Baseline Study on El-Nino linked gender-based violence in the ten districts of Lesotho” (2016).

### 3. Educational institutions

41. Educational institutions include not only primary and high schools, namely institutions recognized by the Government, but also other forms of educational institution. Before starting primary education, children receive early childhood education in day-care centres and preschools, particularly when both parents are required to work. For those parents who cannot afford to pay tuition and have to resort to the cheapest option, it might mean a day-care centre with no running water and children wearing the same diaper throughout the day. Some of the centres are not officially registered and do not operate in a regulated venue designed for the purpose. Hence, it is often the case that unregulated day-care centres are without proper access to water and toilets.

42. Preschools are also outside the government purview and access to water and sanitation remains the responsibility of teachers or parents. In one preschool the Special Rapporteur visited in Quthing, the children defecated in the open on a row of four bricks that seemed to indicate the location of the toilet. In the same preschool, which was located in a village supplied with water standpipes, teachers had established a “tippy-tap” system for the children to wash their hands. Toilet manners are established early in a child’s life and it is imperative that preschool children do not adopt the habit of defecating in the open, a habit that frames adult life.

43. The situation of water and sanitation services in primary and high schools that are regulated by the Government are also in need of improvement. The Special Rapporteur visited one primary school near the Katse Dam area, which was simply a tent in the middle of a field with no water or toilets at all. Approximately 30 students used the open field to urinate and defecate and 1 student told the Special Rapporteur: “people laugh at me when I go in the field”. In other schools in the urban areas connected to the central piped system, the Special Rapporteur observed that schools had access to water and ventilated improved pit latrines. However, he observed that a sufficient quantity of water was not available, particularly in one boarding school, where girls were allowed to take a bath daily but use only 1.7 litres of water.

44. The level of access to water and sanitation in educational facilities, particularly in the rural areas, are either at par or lower than the level of the facilities in the local community. When a rural community has access to proper water sources, the schools also benefit from those sources. However, as there is an unclear attribution of roles between the Department of Rural Water Supply of the Ministry of Water and the Ministry of Education as to the specific responsibility for water supply and sanitation in rural schools, there is a gap that results in poor coverage of services for those schools.

### 4. Sanitation and hygiene

45. Water and sanitation go hand in hand, and the rights to water and sanitation are distinct but interrelated rights. The Special Rapporteur observed that where water and toilet provisions were adequate, hygiene lagged behind. Sanitation facilities include toilets and pit latrines but also facilities meeting hygiene requirements, such as the availability of soaps and other hygienic products. These are requirements, particularly for hand-washing, menstrual hygiene, the management of children’s faeces and the preparation and consumption of food and drink. They are crucial elements for health protection and for ensuring dignity for women and girls.

46. When the Special Rapporteur travelled towards the highlands, particularly in the districts of Thaba-Tseka and Mokhotlong, he could see the standard ventilated improved pit latrines next to each traditional Basotho-style hut. That is a great achievement of the country’s policy for sanitation since the latrines are widely disseminated and some are well designed and constructed. However, next to each latrine, the Special Rapporteur did not see any hand-washing facilities. According to the WHO/UNICEF joint monitoring programme, only 2 per cent of Basotho have access to basic hand-washing facilities. Limited availability of hygiene products and facilities was also observed when the Special Rapporteur visited both the male and female Lesotho correctional services. The provision of soap was limited owing to budgetary constraints and inmates relied on their families and charity organizations to provide soap and other hygienic products. It was also the same for

educational facilities, particularly schools in rural areas, where students testified that even with access to water and toilets, they often did not have soap for hand-washing.

## **B. Accessibility**

47. Water and sanitation facilities and services must be physically accessible for everyone within or in the immediate vicinity of all spheres of their lives, particularly at home, but also in educational institutions, health facilities, the workplace, prisons and public places.

### **1. Leaving no one behind**

48. The Special Rapporteur would like to emphasize that there are still many Basotho who are left behind in terms of access to water and sanitation. Persons with physical disabilities and older persons, even if there is a water source nearby, are not able to walk the distance, particularly in the steep rocky paths in the highlands, to fetch water and carry it in heavy buckets. Furthermore, they may not be able to operate facilities such as hand pumps to draw water, given their physical limitations. In several villages the Special Rapporteur visited, he saw elderly people who had difficulty in moving, some of whom were either nearly blind or deaf. While some older persons can tap into their pension to hire and pay someone to collect water for them, orphans and those living in poverty have limited economic means to access water and sanitation.

49. While the Special Rapporteur saw ventilated improved pit latrines constructed of bricks, metal or stone throughout his travels in Lesotho, he did not come across any such latrines designed for persons with disabilities, which require specific designs and specifications. About 2.6 per cent of the Basotho population was reported as having one form of disability, with the most prevalent type being partial blindness followed by other disabilities such as a paralysed limb, or amputation of a foot or leg.

50. Another category of people that are left behind is gender non-conforming persons. In general, the impression of the Special Rapporteur was that Basotho society viewed a variance in sexual orientation, gender identity and gender expression as a non-existent issue and perhaps against Basotho culture. He would like to stress that people who are non-conforming in terms of sexual orientation and gender are entitled to the same rights as any other Basotho, particularly in access to water and sanitation services. In particular, transgender persons should be treated with the same respect as others and targeted measures should be taken to ensure their dignity and privacy and choice of the use of public toilets, without the risk of being mocked or harassed, let alone assaulted. The Special Rapporteur believes that the issue of gender should be on the discussion table and respectfully suggests that Lesotho start a discussion on the access of gender non-conforming people to toilets in schools, workplaces and public spaces.

### **2. Public space**

51. During his trips to the highlands and the south, the Special Rapporteur passed through several business centres of towns, where he saw numerous street vendors with makeshift shacks. He also saw many informal vendors who were selling fruits in plastic bags on the road. From interviews with the vendors, the Special Rapporteur learned that they pay 2 maloti to use toilets in commercial centres and for water they rely on nearby public taps or make special arrangements with government facilities for a supply of water. If these options are not available, the vendors bring water from home to sustain them through the day.

52. When the Special Rapporteur asked other residents about the situation of water and toilets from the perspective of the street vendors, they said that it was a question that had never occurred to them. The reactions of the people he spoke to are perhaps not surprising as many people do not put themselves in the shoes of those whose workplace is the streets. The human rights to water and sanitation require that services must be physically accessible for everyone within or in the immediate vicinity of all spheres of their lives, particularly at

home, but also in other spaces (see A/HRC/42/47). Governments are required to intervene in those spaces in order to ensure the provision of water and toilets as needed.

### **3. Correctional services**

53. As the result of reforms in 2004, the water and sanitation facilities in some correctional services have been refurbished with a large leap from the bucket toilet to stainless steel toilet seats and individual water faucets in cells. The Special Rapporteur visited a correctional service and was positively surprised at the facilities in both the single and communal cells. The female correctional service that he visited had not yet been refurbished but there were plans for renovation, which he hopes will take place soon. The Special Rapporteur hopes that the situation in the correctional services of other districts matches the level of the correctional services he visited.

### **4. Maintenance of sanitation solutions**

54. The ventilated improved pit latrines, widely disseminated in Lesotho, were built mainly in two phases in 1998 and 2000. They are therefore now about 20 years old and several villagers explained to the Special Rapporteur that they had never been emptied or maintained by the Government. During all his interactions with people, nobody mentioned that they had emptied the pit latrines. In one rural village, the Special Rapporteur saw a latrine which was full and leaking excreta. The owner explained that she had had to patch it with concrete so that it did not overflow and eventually that she had had to build an additional latrine, standing next to the initial one, which had also reached capacity.

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

56. The construction of toilets should not remain the final goal and for the Basotho to fully enjoy the right to sanitation, the sustainability of the solution must be ensured. In particular, maintenance after construction, namely emptying pit latrines and providing environmentally adequate disposal of the sludge must be part of the solution.

### **5. Water infrastructure in rural areas**

57. Many rural villages that the Special Rapporteur visited relied on public standpipes that were constructed by the Department of Rural Water Supply; however, in some places, villagers no longer used the community taps located close to their homes owing to vandalism, a lack of maintenance and the lack of water in the standpipes. The water supply to villages seldom benefited from maintenance by public authorities. The Special Rapporteur observed that the construction of water systems was the target and once a water system was built, attention turned to the next community. He saw several water sources that had dried up and pipelines that had been vandalized, leaving communities on their own to repair those facilities or find alternative ways to access a water supply.

## **C. Affordability**

58. Water and the use of sanitation facilities and services must be affordable to individuals for all personal and domestic uses (see A/HRC/30/39). Affordability is a key element of the human rights to water and sanitation. When households pay an excessive amount to have access to water and sanitation services or self-supply those services, this may imply either not having any access to those services or a compromise on access to other essential needs, such as housing, food, health or education.

## 1. Water tariff and connection charges in urban areas

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

60. Two examples illustrate how the tariff scheme applies in practice. If one household consumes 4,000 litres of water a month, the bill amounts to 63 maloti (around US\$ 5) for both services. If another household consumes 16,000 litres, corresponding to six persons consuming 90 litres per capita per day, the bill reaches 400 maloti (around US\$ 31). Interacting with different residents in Mphahlele, Maseru, Maseru, Maseru and Maseru, the Special Rapporteur learned that the monthly bill was unaffordable for some, who told him that it could represent a significant share of their incomes.

61. The increasing block tariff model adopted for pricing does not necessarily protect the poorest of the poor and the poor, which are the two lowest categories established by the National Commission for Social Assistance. A lack of association between consumption and income has been demonstrated in various contexts, particularly because poor households often have a greater number of residents and consequently require a larger amount of water. In that regard, the Special Rapporteur urges the Ministry of Water and the Lesotho Electricity and Water Authority to undertake an in-depth analysis of the current tariff scheme in order to ensure that access to water and sanitation services is affordable for those in a vulnerable situation and those in need. In the present review, the Special Rapporteur encourages the Government to consider implementation of the model of social tariffs, practised in a number of countries. He also recommends an assessment of connection fees and their impact on the capacity of poor households to be connected to piped systems.

62. Further, in future tariff revisions, the Electricity and Water Authority should implement cross-subsidization, as identified in the water and sanitation policy of 2007. According to the policy, the plan was to ensure cross-subsidy tariff mechanisms in cases where customers were unable to afford the cost of the lowest service level and ensure that maximum expenditure on water did not exceed 5 per cent of disposable income. The Special Rapporteur suggests that Lesotho consider cross-subsidization from non-residential consumers, mostly industry and commerce, to residential users, charging the former more in order to provide affordable tariffs to the poorest. He further notes the importance of the financial sustainability of the Water and Sewerage Company, but at the same time stresses the need to reconcile sustainability with affordable access to services.

## 2. Disconnections in case of incapacity to pay

63. Affordability does not require that water and sanitation services be provided free of charge. When people cannot afford water and sanitation for reasons beyond their control, however, the State needs to find ways to ensure such access. Disconnection of water services because of inability to pay constitutes a violation of human rights. The practice of disconnection in Lesotho raises concerns from a human rights perspective. When a household cannot pay for the water services provided by the Water and Sewerage Company, the services are disconnected after several notices. The Special Rapporteur recommends that the Government review this practice and adopt a different procedure for those unable to pay water and sanitation tariffs for reasons beyond their control.

## 3. Institutions and rural areas

64. Another prominent concern related to affordability is the tariffs imposed on institutions, such as schools and health-care facilities. Schools and health centres provide basic services and the charges that apply to them cannot be seen as equivalent to those applied to commercial businesses and industries. One solution would be to establish a

special tariff for schools and health centres and ensure that disconnections owing to lack of payment for those institutions do not occur.

65. An additional concern related to affordability arises when the Government is not compliant with its obligation of providing services, which include both construction and maintenance. This is very important for sanitation, in particular in rural areas, where households rely on their own resources to build or maintain latrines. Although the Special Rapporteur was happy to observe large quantities of ventilated improved pit latrines at every site that he visited, he also noticed that it was not always the Government that had provided them and that numerous households were obliged to build their own latrines. Building latrines can be very expensive for some families, which can result in the practice of open defecation.

#### **D. Quality and safety**

66. The water used by households and individuals for domestic and personal use must be of sufficient quality to protect their health.<sup>20</sup> In the case of Lesotho, where water supply relies heavily on gravity-fed water, untreated or only disinfected, pollution of water by any means, including by agriculture, industry and wastewater must therefore be prevented.

67. In relation to water quality, it is vital that Lesotho establishes a national regulation on drinking water quality, concluding the efforts undertaken for the development of the draft quality standards and guidelines in 2013. Such efforts to establish a regulation should be coherent with the current and future realities of water supply in the country and consider the most updated scientific evidence, in particular the most recent version of the WHO Guidelines for Drinking-water Quality, which define the relevant limits for a wide range of potentially harmful substances to prevent “significant risk to health over a lifetime of consumption”. The regulation should also take into account collective and individual water supplies, the role of the government agents involved in the control and surveillance of drinking water quality, safety plans and the provision of information to users in a manner that is clear to them.

68. It is also clear that there is room for improvement in both control and surveillance of drinking-water quality. The routine quality control undertaken by the Water and Sewerage Company and the Department of Rural Water Supply covers a limited number of parameters. The surveillance undertaken by the Ministry of Health lacks the resources and staff to collect a larger number of and more representative samples or test more parameters. In that connection, the Special Rapporteur recommends that the Government endeavour to establish a well-equipped, well-staffed and accredited national laboratory for drinking-water analysis, which can be at the disposal of all government agents involved in the monitoring and surveillance of water quality.

69. Water supply to the population living in rural areas, where it exists, does not include water treatment, nor do residents treat water at the household level. Considering the increasing degradation of water sources and the impact on water availability related to climate change, the Special Rapporteur emphasizes that water treatment in the rural areas, at the community or household level, should be part of the national agenda.

70. In urban areas, where the Special Rapporteur interacted with the technical staff of the Water and Sewerage Company, he realized that most water treatment plants in Lesotho were obsolete, having mostly been constructed in the 1980s. Both the plants and the treatment processes are ageing and were designed to treat a different type of water with low turbidity and not the water currently affected by environmental degradation and droughts. As this obsolescence can potentially impact drinking-water quality and, ultimately, the health of end users, the Special Rapporteur recommends that the Water and Sewerage Company establish plans to update the water treatment plants. He emphasizes that once water treatment services and facilities have been improved, those positive developments must be maintained and retrogression avoided. Services and systems must be appropriately

<sup>20</sup> See Committee on Economic, Social and Cultural Rights, general comment No. 15, para. 12.

financed for their full life cycle, including for operation, maintenance, repair and replacement.

## **E. Impacts from mega-projects**

71. Watersheds involved in the dams of the highlands water project correspond to over 40 per cent of the country's total area. As part of phase I of the project, the Katse and Mohale Dams were finalized in 1997 and 2003 respectively. During phase I, there were long delays in implementing the rural sanitation and village water supply component for impacted and displaced communities. To date, there are conflicting figures about the status of water and sanitation in those villages in the area of influence of the dams, although there is a consensus that gaps persist.

72. It was explained to the Special Rapporteur that several villages surrounding the Katse Dam had lost their water supply in 1995 when their natural springs dried up as a result of seismic activity that occurred during the inundation of the dam, an impact likely attributable to this mega-project. As a consequence, villagers have to walk for more than two hours to gain access to water from other villages. Following complaints, the Mapeleng villagers and the Lesotho Highlands Development Authority reached an agreement. The Special Rapporteur was happy to hear that the case had been settled, with the provision of water to one of the affected villages. The Special Rapporteur wishes to emphasize that this should not be the end of the efforts by the Development Authority but a starting point.

73. The Special Rapporteur wishes to highlight a few elements of the agreement that serve as good practice, including implementation of the Mapeleng water supply project as compensation for the negative impact that the Katse Dam has had on the village. The project was initiated with public consultation with local entities and authorities and unskilled labour sourced from the Mapeleng community. In accordance with the agreement, the Lesotho Highlands Development Authority will implement a water system for the benefit of the Mapeleng community. The Department of Rural Water Supply will be in charge of the long-term maintenance and operation of the water supply system through two Mapeleng community members, who will be trained during the construction phase of the project. For the agreement to be a positive development, the Special Rapporteur emphasizes that all the elements need to be implemented.

74. What the Special Rapporteur found ironic and unjust is that several villages, including the one that he visited, did not have access to water, while the reservoir was clearly visible. One woman told the Special Rapporteur that: "it is painful to see water there [pointing at the reservoir] and not here [pointing at the village]". The villagers saw water, untouchable by them, reserved for delivery to South Africa while they were going thirsty. Furthermore, Katse village has an abundant supply of potable running water in the high school, the health clinic and other public services, which are facilities implemented as part of the highlands water project. However, the neighbouring village within walking distance that the Special Rapporteur visited had precarious access to water and villagers were collecting water from unprotected sources.

75. With phase I of the highlands water project officially launched in March 2014, preparations for the construction of the Polihali Dam, as part of phase II, were in place at the time of the Special Rapporteur's visit. Among the stated benefits that will flow from the project are the creation of employment opportunities, the establishment of health centres and schools, the construction of road infrastructure and the connection of electricity. These goals should be reached in a manner that is the least intrusive and restricting of the rights of local people and, in particular, without compromising their access to water. Phase II of the highlands development project should take into account the lessons learned from phase I, putting every effort into prioritizing immediate access to water and sanitation for those living near the dams, as a matter of equality and justice.

## V. Monitoring and reporting

76. The Special Rapporteur emphasizes that the obligation to adopt and implement a plan of action to implement programmes and monitor the extent of realization and non-realization of rights is not conditional on a possible lack of resources. The Special Rapporteur observed a gap in reporting and monitoring of obligations under the international human rights treaties to which Lesotho is a party. Information on water, sanitation and hygiene is available in Lesotho and helps the Government and all relevant stakeholders to understand the degree of access to those services. However, a more comprehensive understanding of the situation is lacking. One of the main references for that would be the monitoring of the Sustainable Development Goals undertaken under the WHO/UNICEF joint monitoring programme. In the baseline of the Goals, published in 2018, information on Lesotho is far from complete. Information on drinking-water quality and water availability is missing and, as a result, it is not possible to estimate the proportion of the population that has access to safely managed services. As for sanitation, there are also no estimates for safely managed services because data on the management and disposal of excreta and on wastewater treatment are missing for both urban and rural areas. Furthermore, data on handwashing are available but are not disaggregated by wealth or district in order to assess and monitor inequalities.

77. Data disaggregation is fundamental for monitoring human rights compliance and the Special Rapporteur encourages the authorities to apply other levels of disaggregation to the data related to water, sanitation and hygiene. Data broken down according to variables related to access to water and sanitation services and comparisons of national figures with access to water in households including orphans, people living with HIV/AIDS, lesbian, gay, bisexual, transgender or intersex persons, or persons with disabilities will provide insights as to the level of inequality in access to services.

## VI. Conclusions and recommendations

78. The Special Rapporteur was honoured to be the first special procedures mandate holder to undertake an official visit to Lesotho. He hopes that other special procedures mandate holders will visit Lesotho in the near future to contribute to the realization of all human rights of the people of Lesotho, the Basotho.

79. The Special Rapporteur observed that Lesotho faced significant gaps related to the safe access of the population to water and sanitation services at the household level and also in educational facilities and public spaces. Various pressing needs impede the Basotho from fully realizing their human rights to water and sanitation and those needs negatively impact their access to water and sanitation services, as well as other dimensions of human development. Without addressing water and sanitation as a national priority, it will be a long time until other social needs and interlinked human rights are fulfilled. For that reason, the Special Rapporteur emphasizes that water, sanitation and hygiene must be placed on the national development agenda of Lesotho as a top priority.

80. The Special Rapporteur further observed multiple needs in the water and sanitation sector, which require that priorities be set in terms of policies, budget, interventions and practices. When everything is stated to be of equal importance without defining the most urgent necessities and the time frame to achieve them, unfeasible and dysfunctional planning can be the result. It is therefore crucial to have operational and transparent criteria that allow identification of the most pressing needs. In that regard, the Special Rapporteur strongly recommends that the Government of Lesotho use the framework of the human rights to water and sanitation to inform those criteria. Using the framework of human rights as a guide would help the Government to identify the highest priorities in the water and sanitation sector. That would take into account key issues, such as people in vulnerable situations and questions surrounding equality and non-discrimination, as well as participation and access to information.

81. The Special Rapporteur emphasizes that the adoption of a comprehensive approach to implementing the human rights to water and sanitation will guide Lesotho to focus on the most vulnerable populations and “leave no one behind” in accordance with its commitment to the 2030 Agenda for Sustainable Development. Ultimately, by adhering to the human rights to water and sanitation, Lesotho will progressively realize universal access to water and sanitation services for all the Basotho. Providing access to safe drinking water and sanitation through the human rights framework can act as an enabler of human development. That would provide more years of school attendance, better health, more work opportunities and, most important, autonomy and emancipation to all the Basotho. Access to safe drinking water and sanitation is a fundamental precondition for the enjoyment of several human rights, including the rights to food, education, housing, health, life and work, and it is a crucial element in ensuring gender equality and the eradication of discrimination and poverty.

82. In that connection, the Special Rapporteur recommends that the Government of Lesotho:

- (a) Enact national legislation explicitly recognizing the human rights to water and sanitation and fully incorporating the normative content of the human rights to water and sanitation;
- (b) Ensure the continuity of plans and policies on water and sanitation and the implementation of those policies in line with human rights;
- (c) In regard to the institutional framework:
  - (i) Make public the decisions of the quarterly water sector coordination meetings;
  - (ii) Adopt the human rights to water and sanitation as a permanent agenda item for the water sector coordination meetings;
  - (iii) Ensure that the Department of Rural Water Supply consults the National Information System for Social Assistance when deciding in which villages to implement its water and sanitation programmes;
  - (iv) Guarantee the independence and autonomy of the regulatory body for water and sanitation services;
  - (v) Enhance budgetary and technical resources for rural water and sanitation services with an emphasis on maintenance;
- (d) Finalize the establishment of the National Human Rights Commission with autonomy and ensure that its mandate includes issues of economic, social and cultural rights;
- (e) In regard to availability:
  - (i) Include hygiene and menstrual hygiene management as part of national policy;
  - (ii) Prioritize the provision of water and toilets to all levels of schools, including preschools and day-care centres;
  - (iii) Review the process of identifying water sources, taking into account projections of water availability during periods of drought;
  - (iv) As an interim measure during droughts, provide water through alternative mechanisms, such as trucks and other transportation methods, in particular to hard-to-reach, remote areas;
- (f) In regard to accessibility:
  - (i) Review policies for abstracting water from the reservoirs in the highlands to provide water to the villages in need and nearby villages, based on an exercise to identify and map the needs of those villages;

- (ii) Initiate efforts at the district level to create public water taps and public toilets, taking into account the needs of the street vendors and other workers on the streets;
  - (iii) Establish a concrete programme of maintenance of ventilated improved pit latrines;
  - (g) In regard to affordability:
    - (i) Undertake an in-depth analysis of the current tariff scheme in order to ensure that access to water and sanitation services is affordable for those in a vulnerable situation and those with limited economic capacity;
    - (ii) Establish a special tariff for schools and health centres and ensure that disconnections owing to lack of payment do not occur;
    - (iii) Establish a clearer procedure on disconnection of water services;
  - (h) In regard to drinking water quality:
    - (i) Increase the number of annual samples for water quality control;
    - (ii) Establish a national regulation on drinking water quality in accordance with the most recent version of the WHO Guidelines for Drinking-water Quality;
    - (iii) Establish a well-equipped, well-staffed and accredited national laboratory for drinking-water analyses;
    - (iv) Include water treatment in the rural areas at the community or household level as part of the national agenda;
  - (i) In regard to mega-projects, including the highlands development project, document the lessons learned from previous projects and phases of projects, and conduct an ex-post human rights impact assessment.
83. The Special Rapporteur recommends that international development funders:
- (a) Prioritize water and sanitation projects in Lesotho in their portfolios;
  - (b) Put in place guarantees and safeguards to ensure that their development cooperation will fully incorporate human rights, in particular by implementing human rights principles and standards at all stages of the cycle of development cooperation projects.
-