Experts group meeting on the water-related SDGs

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Measuring the Human Rights to Water and Sanitation Realisation

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**LEGAL BASIS**

1. International Covenant of Economic, Social and Cultural Rights

2. The Committee on Economic, Social and Cultural Rights adopted General Comment No. 15 on the right to water (November 2002)

3. Recognition of water and sanitation as human rights was reaffirmed by the UN General Assembly in July 2010 (A-RES-64-292) and by the Human Rights Council in September 2010 (HRC Resolution 15-9).
International human rights treaties entailing specific obligations related to access to safe drinking water:

The Convention on the Elimination of All Forms of Discrimination against Women, adopted in 1979 (Art. 14 (2)). Ratified by all the Arab States with some reservations.

The Geneva conventions protecting civilians and combatants during armed conflicts (1949). Ratified by all the Arab States.

International Labour Organization (ILO) Convention No. 161 concerning Occupational Health Services, adopted in 1985 (Art. 5). Not yet ratified by the Arab States.

The Convention on the Rights of the Child, adopted in 1989 (Arts. 24 and 27 (3)). Ratified by all the Arab States with some reservations.

Regional Treaties relating to the right to water (Arab region)

• The Arab Charter on Human Rights (2004)
The Arab Charter on Human Rights
(entered into force March 15, 2008)

Article 39:

1. The States parties recognize the right of every member of society to the enjoyment of the highest attainable standard of physical and mental health and the right of the citizen to free basic health-care services and to have access to medical facilities without discrimination of any kind.

2. The measures taken by States parties shall include the following:

   (e) provision of the basic nutrition and **safe drinking water for all**.

   (f) Combating environmental pollution and providing **proper sanitation systems**;
AT THE NATIONAL LEVEL

Three Arab States have already recognized the human right to water in their constitutions:

**Morocco (2011), article 31:** “The State, the public establishments and the territorial collectivities work for the mobilization of all the means available to facilitate the equal access of the citizens to conditions that permit their enjoyment of the right: – to the access to water and to a healthy environment.”

**Tunisia (2014), article 44:** “The right to water shall be guaranteed.”

**Egypt (2014), article 79:** “Each citizen has the right to healthy, sufficient amounts of food and clean water.”
AT THE NATIONAL LEVEL

Other Arab States recognized this human right through other legislative texts (laws and regulations):

In Algeria, article 3 of the Water Act (Law n°05-12 on 4 August 2005) recognizes “the right to access to water and sanitation to satisfy the fundamental needs for the population in accordance with respect to equity and the rules set out in this Act”.

WaterLex
AT THE NATIONAL LEVEL

• The Palestinian Water Law 3/2002 explicitly recognizes the right to water by stipulating that “Every person shall have the right to obtain his needs of water of suitable quality for his use, and every official or private institution that provides water services must take the necessary steps to insure this right and to make the necessary plans for developing these services.”

• The Law on Local Authorities (1997), stating that, “Local councils must provide water with good quality and also to provide sanitation services as basics for human being living.”
DEFINITION

Recognition by the UN General Assembly and Human Rights Council in line with the interpretation of the content of the right to water by the UN Committee on Economic Social and Cultural Rights (CESCR) in its General Comment Nr. 15 (2002) on the basis of the 1966 International Covenant on Economic, Social and Cultural Rights:

The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.
NORMATIVE CONTENT OF THE HUMAN RIGHTS TO WATER AND SANITATION

5 subject-specific criteria
- Availability
- Quality
- Acceptability
- Accessibility
- Affordability

5 human rights principles
- Non-discrimination
- Access to information
- Participation in decision-making process
- Accountability
- Sustainability
SUBJECT SPECIFIC CRITERIA
AVAILABILITY

• Water supply must be **sufficient and continuous for personal and domestic uses**, which ordinarily include drinking, personal sanitation, washing of clothes, food preparation, and personal and household hygiene.

• There must be a **sufficient number of sanitation facilities** to ensure that all of the needs of each person are met.

• General Comment 15 does not specify quantity to be made available to all, but refers to the need of **WHO conformity**.
<table>
<thead>
<tr>
<th>Quantity</th>
<th>Needs</th>
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<tbody>
<tr>
<td>50-100 litres/per person/day</td>
<td>Most basic needs are met and few health concerns arise</td>
</tr>
<tr>
<td>20-25 litres/per person/day</td>
<td>Minimum - this amount raises health concerns because it is insufficient to meet basic hygiene and consumption requirements</td>
</tr>
</tbody>
</table>
QUALITY

Water for personal and domestic uses must be safe and acceptable.

Water must be free from microbes and parasites, chemical substances and radiological hazards that constitute a threat to a person’s health.

Sanitation facilities must be safe to use and must effectively prevent human, animal and insect contact with human excreta, to ensure safety and to protect the health of users and the community.
ASSESSING QUALITY

WHO Guidelines for Drinking-water Quality provide a basis for the development of national standards, which, if properly implemented, will ensure the safety of drinking water.
Acceptability concerns subjective assessments of the rights holders’ perceptions about water and the delivery of water.

**Consumer acceptability**
- includes the characteristics of the water (e.g. odour, taste and colour) as well as procedural considerations (e.g. the behaviour of water suppliers).

**Cultural acceptability**
- refers to subjective perceptions based on the culture of individuals, minority groups and communities.
Accessibility concerns the level of access and identifies who has access.

General Comment 15:

“Sufficient, safe and acceptable water must be accessible within, or in the immediate vicinity, of each household, educational institution and workplace........Physical security should not be threatened during access to water facilities and services.”
AFFORDABILITY

Water services must be affordable to all. No individual or group should be denied access to safe drinking water because they cannot afford to pay.

All direct and indirect costs related to water and sanitation should not prevent anyone from accessing these services and should not compromise their ability to enjoy other human rights (the rights to food, education, adequate housing or health).
AFFORDABILITY

For instance, UNDP suggests 3 per cent of household income as a benchmark.
PROCEDURAL RIGHTS
AND
HUMAN RIGHTS PRINCIPLES
NON-DISCRIMINATION AND EQUALITY

Water and sanitation facilities must be **available to all on a non-discriminatory basis**.

Priority must be given to the **most marginalized and vulnerable** to exclusion and discrimination.
ACCESS TO INFORMATION

The right to seek, receive and impart information concerning water issues and water utilities.

Individuals must both be aware of their rights and also know how to claim them.

States must therefore ensure that information relating to standards, as well as progress towards meeting those standards, is available and accessible.
PARTICIPATION

The human rights to water and sanitation can only be realized effectively through full, free and meaningful participation in decision-making processes by people affected by the decisions.

Participation ensures better implementation and enhances the effectiveness and sustainability of interventions, offering the possibility of social transformation.
ACCOUNTABILITY

States should be held accountable for meeting their obligations and ensuring that non-State actors respect their respective obligations.

Persons or groups denied their human right to water and sanitation should have access to effective judicial or other appropriate remedies.
Future generations shall also have the right to water and sanitation.

Water and sanitation must be provided in a way that respects the environment and ensures a balance of the different dimensions of economic, social and environmental sustainability.

Services must be available sustainably for present and for future generations.

Keep clean sources clean, biodiversity intact and clean up pollution.

The provision of services today should not compromise the ability of future generations to realize their human rights to water and sanitation.
OBLIGATIONS OF STATES
TYPE OF OBLIGATIONS

PROTECT

Fulfil

RESPECT
KEY CONCEPT

PROGRESSIVE REALISATION

“progressive realization constitutes a recognition of the fact that full realization of all economic, social and cultural rights will generally not be able to be achieved in a short period of time”

Committee on Economic, Social and Cultural Rights
RESPECT

The obligation to respect requires States to refrain from interfering directly or indirectly with the enjoyment of the right to water.

States should refrain from, for instance:

- polluting water resources
- arbitrarily and illegally disconnecting water and sanitation services
- reducing the provision of safe drinking water to slums in order to meet the demand of wealthier areas
- destroying water services and infrastructure as a punitive measure during an armed conflict
- depleting water resources that indigenous peoples rely upon for drinking.
The obligation to protect requires States to prevent third parties from interfering with the right to water.

States should adopt legislation or other measures to ensure that private actors—e.g., industry, water providers or individuals—comply with human rights standards related to the right to water.

States should adopt the necessary legislative and other measures to ensure:

- that third parties do not arbitrarily and illegally disconnect water and sanitation services
- communities are protected against third parties’ unsustainable extraction of the water resources they rely upon for drinking
- the physical security of women and children is not at risk when they go to collect water or use sanitation facilities outside the home
- landownership laws and practices do not prevent individuals and communities from accessing safe drinking water
- the third parties controlling or operating water services do not compromise the equal, affordable and physical access to sufficient safe drinking water.
The obligation to fulfil requires States to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures to fully realize the right to water.

States must adopt a national policy on water that:

- gives priority in water management to essential personal and domestic uses
- defines the objectives for the extension of water services, with a focus on disadvantaged and marginalized groups
- identifies the resources available to meet these goals
- specifies the most cost-effective way of using them; outlines the responsibilities and time frame for implementing the necessary measures
- monitors results and outcomes, including ensuring adequate remedies for violations.
Sustainable Development Goals

6. CLEAN WATER AND SANITATION
Sustainable Development Goals

SGD 6: WATER AND SANITATION

NATURAL ECOSYSTEMS

UNIVERSAL WATER

INTEGRATED MANAGEMENT

UNIVERSAL SANITATION

WATER EFFICIENCY

WATER QUALITY

Source: UN-DSD (United Nations Division for Sustainable Development)
Sustainable Development Goals

Target 6.1. - Achieve universal and equitable access to safe and affordable drinking water for all.

The MDG target for safe drinking water has already been met: over 90% of the world’s population has now access to improved sources of drinking water. However, in many developing regions (Central Asia, Northern Africa, Oceania and sub-Saharan Africa), the safe drinking water coverage remains low, and 663 million people still lacking access to improved drinking water sources. This targets aims to achieve an universal access to safe drinking water by continuing the efforts done.

Target 6.2. - Achieve access to adequate and equitable sanitation and hygiene for all.

Unlike in drinking water, the MDG target for sanitation has been missed: only 68% of the global population uses an improved sanitation facility. Today almost 2.4 billion people still lack access to adequate sanitation, and open defecation remains a common practice in many regions. This targets aims to achieve an universal access to sanitation by increasing the efforts done in the implementation of improved sanitation facilities.
Sustainable Development Goals

6.b Support and strengthen the participation of local communities in improving water and sanitation management
Measuring the HRWS implementation

“Monitoring for the human rights to water and sanitation will often differ from the more technical monitoring undertaken by different subnational, national and international bodies, which measures the number of latrines or the functioning of water-points”.

Catarina De Albuquerque
- Realizing the human rights to water and sanitation,
  a handbook by the UN special rapporteur
Measuring the HRWS implementation

The treaty bodies:

• Each United Nations human rights treaty establishes a treaty body to monitor the implementation of the provisions contained within the treaty.

• The Committee on Economic, Social and Cultural Rights is tasked with monitoring the implementation of the obligations of States Parties to the International Covenant on Economic, Social and Cultural Rights, and it has been active in pressing States to realise the human rights to water and sanitation.

• The Committees on the Rights of the Child and on the Elimination of All Forms of Discrimination Against Women have also included the human rights to water and sanitation in their work.
Measuring the HRWS implementation

The **special rapporteur** on the human rights to water and sanitation:

- Established by the UN Human Rights Council in March 2008
- Carries out thematic research,
- Undertakes country missions,
- Collects good practices
- Works with development practitioners on the implementation of the rights to water and sanitation
Measuring the HRWS implementation

The WHO/UNICEF Joint Monitoring Programme:

• Established in 1990, the JMP produces national, regional and global estimates of progress on drinking water and sanitation and was responsible for reporting progress towards Millennium Development Goal (MDG) 7c.

• Tracked and presented data that shed light on a number of other issues, including inequalities such as the gap between urban and rural residents, the gender burden of water collection and the persistent exclusion of the poor from water and sanitation services.
Measuring the HRWS implementation

The UN-Water Global Annual Assessment for Water and Sanitation (GLAAS) implemented by WHO:

• Monitoring the inputs (human resources and finance) and the enabling environment (laws, plans and policies, institutional arrangements, monitoring) required to extend and sustain water, sanitation and hygiene (WASH) systems and services to all.

• Analysing the factors associated with progress in order to identify drivers and bottlenecks, highlight knowledge gaps and assess strengths and challenges within and across countries.
Measuring the HRWS implementation

The Integrated Monitoring initiative GEMI

• Established in 2014 as an inter-agency initiative composed of UNEP, UNHabitat, UNICEF, FAO, UNESCO), WHO and WMO, co-operating under the umbrella of UN-Water and complementing JMP and GLAAS.

• The initiative’s focus is to integrate and expand existing monitoring efforts on wastewater treatment and water quality, water use and use-efficiency, integrated water resources management and water-related ecosystems (SDG targets 6.3 to 6.6, and 6.a and 6.b).
Measuring the HRWS implementation

National Human Rights Institutions (NHRIs)

• Administrative bodies set up according to a constitutional or a legislative mandate, to promote, protect or monitor human rights in a given country.

• More than 100 countries currently have NHRIs charged with promoting and protecting human rights.

• NHRIs that comply with the “Paris Principles” relating to their status, could play a crucial role in promoting and monitoring the effective implementation of the human rights to water and sanitation at the national level.
Measuring the HRWS implementation

The NHRI mandate includes the following activities that together constitute human rights monitoring:

- examining the legislation and administrative provisions in force, as well as bills and proposals and make such recommendations as it deems appropriate;
- preparing reports on the national situation with regard to human rights in general;
- drawing to the attention of the Government situations in any part of the country where human rights are violated and making proposals.

In particular a NHRI shall:

- be able to pinpoint what is wrong with a situation or a case and to indicate what steps can be taken to remedy it;
- improve the implementation of human rights by substantiate claims of better protection in the dialogue with authorities and regional and international organizations;
- make information available so it can be used by civil society organizations and the media in advocacy for human rights improvements.
Measuring the HRWS implementation

National Human Rights Institutions (NHRIs)

General Comment No. 15 on the “Right to Water,” adopted in 2002 by the United Nations Committee on Economic, Social and Cultural Rights, explicitly refers to “national ombudsmen, human rights commissions, and similar institutions that should be permitted to address violations of the right to water”. 
Measuring the HRWS implementation

National Human Rights Institutions (NHRIs)

Monitoring the HRWS by the South-African NHRI
Measuring the HRWS implementation

National Human Rights Institutions (NHRIs)
Monitoring the HRWS by the Colombian NHRI
Measuring the HRWS implementation

Civil Society:

• All non-State, not-for-profit structures, non-partisan and non-violent, through which people organise to pursue shared objectives and ideals, whether political, cultural, social or economic (E.U.)

• Major Groups: 1) Women, 2) Children and Youth, 3) Indigenous People and their Communities, 4) NGOs, 5) Local Authorities, 6) Workers and their Trade Unions, 7) Business & Industry, 8) the Scientific and Technological Community, and 9) Farmers (UNCED Agenda 21)
Measuring the HRWS implementation

Civil Society:

National and international NGOs have a role to play in:

- Promoting the HRWS and raise awareness among communities,
- Building Capacities on data collection,
- Monitoring State or service providers’ compliance with their obligations and responsibilities with respect to the HRWS.
The special rapporteur’s Check List

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<thead>
<tr>
<th>General</th>
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<tbody>
<tr>
<td>Has the State established indicators to monitor the human rights to water and sanitation?</td>
<td>Yes</td>
<td>In progress</td>
<td>No</td>
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<tr>
<td>Is there an institution that monitors the availability of water and sanitation at the national and local levels?</td>
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<tr>
<td>Is there an institution that monitors the accessibility of water and sanitation facilities, including accessibility for people who may face barriers in access, such as marginalized or excluded individuals and groups, persons with disabilities, the young, and older persons?</td>
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<tr>
<td>Is there an institution that monitors access to water and sanitation outside the home; at workplaces, schools, health institutions and public spaces, as well as for people who live in places where they have no control over their own access, such as in detention centres?</td>
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<td>Is there an institution that monitors access to services at the level of the household? Does monitoring of access within the household consider people suffering from stigmatised chronic illnesses such as HIV/AIDS?</td>
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<tr>
<td>Is there an institution that monitors water quality?</td>
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<td>Is there an institution that monitors the quality of sanitation provision?</td>
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<tr>
<td>Does monitoring include the availability of water and sanitation services?</td>
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<td>Is there an institution that monitors the affordability of water and sanitation services?</td>
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<tr>
<td>Is there an institution that monitors the acceptability of water and sanitation facilities? Are participatory approaches to monitoring put in place?</td>
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<tr>
<td>Is there an institution that monitors the sustainability of new water and sanitation facilities?</td>
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<tr>
<td>Is there an institution that monitors inequalities? Have the most disadvantaged and excluded individuals and/or groups been identified? Is disaggregated data available?</td>
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<tr>
<td>Is there an institution that monitors inequalities? Have the most disadvantaged and excluded individuals and/or groups been identified? Is disaggregated data available?</td>
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<tr>
<td>Are the data for the worst-off populations compared with those for the better-off populations, to establish the disparities?</td>
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<tr>
<td>Is the rate of progress necessary to meet the target determined for both the worst-off and better-off groups?</td>
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The special rapporteur’s Check List

<table>
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<tr>
<th>Specific</th>
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<tbody>
<tr>
<td><strong>State actors</strong></td>
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<tr>
<td>Has the government accepted recommendations on the human rights to water and sanitation in the context of the treaty bodies review and the Universal Periodic Review? Has it taken steps to implement them?</td>
</tr>
<tr>
<td>Is there an independent regulator that supports the monitoring of the human rights to water and sanitation?</td>
</tr>
<tr>
<td>Is there an independent national human rights institution that supports the monitoring of the human rights to water and sanitation?</td>
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</tbody>
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<thead>
<tr>
<th>Donors</th>
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<tbody>
<tr>
<td>Do donors monitor their own projects for compliance with the human rights to water and sanitation?</td>
</tr>
<tr>
<td>Do donors monitor recipient States’ policies and plans for compliance with the human rights to water and sanitation?</td>
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<tr>
<td>Before investing in constructing water and sanitation facilities, are the costs of operating and maintaining such facilities fully considered?</td>
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<tr>
<th>National human rights institutions</th>
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<tbody>
<tr>
<td>Does the national human rights institution monitor the human rights to water and sanitation?</td>
</tr>
<tr>
<td>Does the national human rights institution play a role in raising awareness and strengthening understanding of the human rights to water and sanitation within the population?</td>
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<tr>
<td>Does the national human rights institution promote the human rights to water and sanitation to government at local and national levels, and does it strengthen accountability systems?</td>
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<tr>
<th>Service providers</th>
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<tbody>
<tr>
<td>Do service providers monitor whether they are in compliance with the human rights to water and sanitation? (see general questions)</td>
</tr>
<tr>
<td>Is the quality of sanitation infrastructure and services monitored?</td>
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<tr>
<td>Are any informal service providers supported by the authorities? / State to perform their monitoring functions?</td>
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<tr>
<td>Where Local Water Committees exist, do they undertake monitoring? How are they supported by the State in this?</td>
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<thead>
<tr>
<th>Civil Society</th>
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<tbody>
<tr>
<td>Does civil society monitor inequalities? Has it identified the most disadvantaged and excluded individuals and / or groups? Does it collect disaggregated data?</td>
</tr>
<tr>
<td>Does civil society monitor the human rights to water and sanitation in informal settlements?</td>
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</tbody>
</table>
Thank you for your attention

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