



Permanent Mission
of the Republic of Indonesia to the UN, WTO,
and Other International Organizations
in Geneva

No.: 103 / POL-II / VII /2020

The Permanent Mission of the Republic of Indonesia to the United Nations, WTO, and Other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and with reference to a letter from the Special Rapporteur on the human rights on safe drinking water and sanitation of 19 March 2020, has the honour to convey the Government of Indonesia's submission for the thematic report on good practices.

The Permanent Mission of the Republic of Indonesia to the UN, WTO, and Other International Organizations in Geneva, avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration

Geneva, 6 July 2020



Office of the High Commissioner for Human Rights

Geneva

Mandate of the Special Rapporteur on the human rights to safe drinking water and sanitation

Questionnaire

Different levels and types of services (2015) (A/70/203)

1. During the last decade (2010-2020), in what ways has the human rights framework for water*, sanitation and hygiene been used to identify and assess appropriate types of services** and management models*** taken into account the specific contexts?
* The human rights standards (available safe, acceptable, accessible and affordable to all) and principles (non-discrimination and substantive equality, participation, access to information, accountability, sustainability)?
**Type of services: connection to a piped network; shared or communal facilities; and individual on-site solutions
*** Categories of management models: utilities (large scale, formal entities); small-scale, NGO or community-run service providers recognized or mandated by State; small-scale, NGO or community-run service providers not regulated by State; and self-supply.

Reply

Human Rights standards in National Law and Regulations

Access to safe drinking water and sanitation as Human Right is enshrined in various legislations. Stakeholders play a role in ensuring the universal enjoyment by all rights-holders of access to safe, affordable, acceptable, and reliable water and sanitation services:

- a) Law No 17 of 2019 concerning Water Resources regulates that the State guarantees people's right to clean water to fulfill their basic daily needs.
- b) The Regional Government has the authority and obligation to meet the need of drinking water of the community, as regulated in Law No. 23 of 2014 concerning Regional Government. Each Regional Government forms regional owned enterprises (BUMD)/regional technical implementation unit (UPTD), which is tasked with carrying out the provision of drinking water for the community.
- c) Presidential Regulation Number 185 Year 2014 concerning the Acceleration of Water Supply and Sanitation, to accelerate the achievement of universal access to water.
- d) Government Regulation No. 122 Year 2015 on Drinking Water Distribution System stated that water supply system is established to provide drinking

water for the society and to fulfill people's right to water. In order to deliver safe water for the society, water supply system is categorized by pipeline and non-pipeline, which is held to guarantee the quantity, quality and continuity of the supply. There are 4 (four) main implementing actors: (1) national/regional owned enterprises; (2) technical implementing unit of services; (3) community groups; and (4) business entity. Water supply management in one district/city is under the authority of regency/city government, while management between districts and/or cities is the responsibility of provincial government, and management between provinces and other strategic areas becomes the responsibility of the central government.

- e) In the Presidential Regulation Number 2 Year 2015 on National Midterm Development Plan 2015-2019, access to drinking water is targeted at 100%. The Government has ensured the progression of efforts in achieving the target in the succeeding National Midterm Development Plan 2020-2024 (Presidential Regulation Number 18 Year 2020).
- f) In 2016 and 2017, more regulations relating to water resources management were issued, which define: the minimum standards of water needs per household, public water enterprises obligation to accommodate public needs over profits, and the responsibility of local governments to subsidize water costs to ensure the minimum standard of services.
 - The regulation of Minister of Home Affairs Number 71 Year 2016 on Guidelines for Setting Tariffs of Drinking Water stated that the basic need for drinking water is the water requirement of 10m³ / family head / month or 60 liters / person / day or another volume unit. The calculation and determination of drinking water tariff is based on several principles, including: affordability and justice; quality of service; and transparency and accountability. The Regulation also covers the provision of subsidies.
 - Government Regulation Number 54 Year 2017 concerning Regional Owned Enterprises (BUMD), stipulated that the purpose of these Enterprises is more on providing good public services rather than getting benefits. This is confirmed in Article 7 section (b) which organized public benefits in the form of providing quality goods and / or services for the fulfillment of people's lives according to the conditions, characteristics and potential of the area concerned based on good corporate governance.
 - Regulation of the Minister of Public Work and People's Housing Number 27 Year 2016 on The Organization of Water Supply System. In the process of administering the water supply system, the central and regional governments also involve community groups. This serves to provide drinking water services to the community in areas that are beyond the reach of regional owned enterprises/regional technical implementation unit. The central government and/or regional government could provide financial support in the implementation of water supply system to the community groups.

- g) According to the Minister of Health Regulation No. 492 Year 2010 concerning Requirements for Drinking Water Quality, drinking water providers are obligated to guarantee that the drinking water they produce is safe for consumption and health. In this case, the organizer of drinking water includes the State-Owned Enterprises (BUMN) or Regional-Owned Enterprises (BUMD), cooperatives, private business entities, individual businesses, community groups, and / or individuals who provide drinking water.

Progress in universal access to drinking water in Indonesia

From the 100% target which has been set in the 2015-2019 period, the achievement of access to drinking water is 88%: with pipeline network accounting for 20% while 68% is from non-pipeline network. The achievement of access to safe drinking water is at 7%. The definition of safe access itself is appropriate access, where the source of drinking water is located in the house or in home yard, available whenever needed and meets physical and chemical quality standards, as well as biological drinking water standards (E.Coli-free). Based on the 2020-2024 National Midterm Development Plan (RPJMN), the 100% target for access to drinking water will be continued, with a pipeline network targeted at 30% and non-pipeline network targeted at 70%. Safe access alone is targeted at 15%.

With regard to drinking water supply system operators, as of 2018, the number of enterprises providing drinking water is 436, consisting of 391 Regional Water Companies (PDAMs), 27 entities managed jointly, and 18 entities that were incorporated as Limited Liability Companies. The National Agency for the Improvement of Drinking Water Supply System (BPPSPAM) has evaluated the performance of 380 regional drinking water supply operators in 2019, where the evaluation results showed 224 (58.9%) were performing well, 102 (26.8 %) were performing below average, and 54 (14.2%) poor.

Gender equality (2015) (A/HRC/33/49)

Question(s):

2. During the last decade (2010-2020), what measures (ranging from legal, policy, regulatory, budgetary to training) have been implemented to redress gender inequalities in water and sanitation provision by addressing gender discrimination? Alternatively, what measures have been central in redressing gender discrimination by addressing inequalities in water and sanitation provisions? What are the concrete steps taken and the observed impacts?

The Government of Indonesia has formulated grand design and policy model on gender mainstreaming in water and sanitation. Such initiatives are set as annual target in 2015 by the Ministry of Women Empowerment and Child Protection. The grand design serves as a measure to address gender discrimination and inequalities in water and sanitation.

As concrete steps, the Government of Indonesia has introduced a community based water supply and sanitation program (Penyediaan Air Minum dan Sanitasi Berbasis Masyarakat/PAMSIMAS). PAMSIMAS is fully state-funded, and it ensure all

community including people with disabilities have access to drinking water. The principle of gender equality is one of the main principles of the program, which is to provide equal opportunities for women and men to make decisions, participate actively in all activities and be responsible for the management of water supply facilities. For people with disabilities, the development of inclusive water supply and sanitation facilities is a development activity that involves and benefits all community members. Inclusive development occurs when all levels of society including, vulnerable people and people with disabilities enjoy the processes and results of development equally.

Development cooperation (2016 and 2017)

Question(s):

3. During the last decade (2010-2020), what efforts have been made by relevant actors (including funders, partner States, implementing entities and others) to align development cooperation policies and operations with the framework of the human rights to water and sanitation? For instance, what are some examples of projects that have:
 - a) Balanced water and sanitation projects and coverage of those interventions between urban and rural areas in a way consistent with the progressive realization of the rights to water and sanitation in each context;
 - b) Ensured that the selection, design and implementation of projects apply the framework for the human rights to water and sanitation, notably prioritizing those people in the most vulnerable situations;
 - c) Ensured that the design and implementation of projects are carried out in a transparent manner with the participation of related stakeholders, providing ample access to relevant information and including mechanisms to address the accountability of funders and implementers;
 - d) Ensured reconciliation between a sustainable financing strategy for long-term service provision and the affordable access to services for all persons;

Reply

In order to align development cooperation with human rights to water, the government of Indonesia focused firstly on providing water access to both cities and rural areas. In 2018, the coverage of urban water services reaches 81.55% while that of rural areas is 64.18%. Examples of the projects are:

- a) The drinking water supply program is continuously adjusted to the needs of the community both in urban and rural areas. Meeting the water needs of the two areas requires different approaches. One approach to fulfil water needs in rural areas is through the community-based water supply and sanitation program (PAMSIMAS). In urban areas, low income household are subsidized to gain water through the Hibah Air (water grant) program. The water grant program enable the central government to pass on grant funding to local governments who are prepared to invest in the development of their water systems to expand service to the urban poor.
- b) In addition to rural areas, the government has also developed a water supply program for drought-prone areas through the preparation and application of

Integrated Water Resources Management (IWRM) in these areas. Such areas include areas and communities in the outer islands of Indonesia.

- c) All programs of water supply system development are carried out in a transparent manner with the participation of related stakeholders, providing ample access to relevant information and include mechanisms to address the accountability of funders and implementers. The projects are not carried out solely using government funding but also through other financing alternatives, including through the public-private partnership/PPP mechanism (KPBU). With the PPP mechanism, the procurement process is carried out openly through open tender in printed and electronic media based on the principles of transparency, non-discrimination and accountability. To ensure a fair and non-discriminatory process, the procurement is also overseen by an independent government procurement agency.
- d) All programs of water supply system development ensure reconciliation between sustainable financing strategy for long-term service provision and the affordable access to services for all persons.

Affordability (2016)

Question(s):

4. During the last decade (2010-2020), what targeted measures and instruments (e.g., financing mechanisms, tariff schemes, subsidies) have been implemented in order to ensure that the most disadvantaged access water, sanitation and hygiene services in an affordable way? Who are the target groups of these measures and instruments? What format do those measures and instrument exist (e.g., national legislation, policy, regulation of service provision, affordability standards)?

In Government Regulation No. 122/2015 on Drinking Water Distribution System (Article 57) and the regulation of Ministry of Home Affairs Number 71 Year 2016 on Guidelines for Setting Tariff of Drinking Water (article 2), the calculation and determination of water tariff take into account several principles, namely:

- a. affordability and fairness;
- b. service quality;
- c. cost recovery;
- d. efficient use of water;
- e. raw water protection; and
- f. transparency and accountability.

This water tariff setting process takes into consideration the people's income, referring to each regional minimum wage. The base-rate tariff covers operational needs and water supply service development, as well as reasonable profit based on the minimum profit ratio. In the case of unaffordability of consumers on base-rate tariff, the local government will cover such expenses, which stipulated from government's responsibility to provide public goods for the people.

Regarding tariff subsidies, as stipulated in the Regulation of Ministry of Home Affairs Number 70 Year 2016 on Guidelines for Regional Governments in providing subsidies to regional government-owned water enterprises/providers, it is stated that the implementation of drinking water supply system aims to fulfill basic services and the need of citizens to safe drinking water at affordable prices. Therefore, it is possible to provide subsidies to government-owned water enterprises/providers so that quality drinking water services are available at affordable prices for the community.

5. During the last decade (2010-2020), what measures have been in place to prohibit disconnection (including prepaid water meters) that result from the inability to pay?

Regulations related to the implementation of drinking water supply systems are included in the aforementioned regulation of 2016 which obliges water service providers to use the subsidized tariff for low-income customers.

In addition, in early 2020, in mitigating the impact of COVID-19, the Ministry of Home Affairs carried out monitoring and evaluation of the activities of the regional/local water companies (PDAM), which found the following measures taken by PDAM:

- In several regions, PDAM waived water tariffs for low income customer groups.
- Deferring payment of drinking water tariff for 2 or 3 months for low income customer groups.
- Help build handwashing infrastructure and hand sanitizer.

Service regulation (2017) (A/HRC/36/45)

Question(s):

6. In the last decade (2010-2020), if a regulatory framework or a regulatory body has been in place or have been established to cover water and sanitation provision, what measures were taken to ensure that this body is effective, independent, and is aligned with the human rights framework?

The water and sanitation regulatory body and policy framework are constantly updated to meet the current situation, especially in overseeing the water service providers in each region. In 2016, the Indonesian Government established the Badan Peningkatan Penyelenggaraan Sistem Penyediaan Air Minum/BPP SPAM (supporting agency for the improvement of drinking water supply system), responsible for the proper operation of water service providers all over the country. This agency assists the central government and regional governments to improve the operation of the drinking water supply system which is carried out by state-owned enterprises and / or regional owned enterprise.

In 2017, the Indonesian government issued further regulation regarding monitoring of managing regionally-owned enterprises which is to be carried out by head of district assisted by the regulatory body (BPP SPAM).

Forcibly displaced persons (2018) (A/HRC/39/55)

Question(s):

7. During the last decade (2010-2020), what measures are in place to guarantee the human rights to water and sanitation by refugees, asylum seekers and migrants in transit or at their destination with the same conditions as those granted to nationals of the States concerned, regardless of their legal status and documentation?

In 2016, the President issued Presidential Regulation No. 125/2016 on the Treatment of Foreign Refugees. Even though Indonesia is not a party to the 1951 Refugee Convention, factually Indonesia extended assistance to many asylum seekers including in providing them with basic necessities. The Regulation stipulated that refugee shelters have to be equipped with the following facilities: clean water supply; food and clothes; medical services; and worship facilities.

8. During the last decade (2010-2020), how has States and humanitarian actors ensured immediate access to the minimum essential level of water and sanitation on a non-discriminatory basis during situations of emergency? Specifically, how has States and humanitarian actors:
- a) Ensured equal access to the minimum essential amount of water that is sufficient and safe for personal and domestic uses and to prevent disease;
 - b) Provided the elements that every person needs for health and survival, and to live in dignity;
 - c) Monitored the extent of the realization of the human rights to water and sanitation;
 - d) Took measures to prevent, treat and control diseases linked to water and sanitation.

Law Number 24 Year 2007 on Disaster Management states that the government and regional governments shall bear responsibility for disaster management efforts. According to the Law, disaster management consists of 3 (three) stages: (i) pre-disaster, (ii) emergency response and (iii) post-disaster.

One measure of disaster management is to meet the basic needs of the affected communities, including assistance in the provision of clean water and sanitation. Disaster relief in terms of providing clean water needs involve the following actions:

- Pre-disaster: the construction of drinking water supply system that satisfies the disaster-proof criteria and requirements which at the time of disaster could minimize the impact that occurs;
- Emergency Response: provide access to clean water and emergency drinking to affected communities equally;
- Post-disaster: reconstruction of all drinking water supply infrastructure and facilities in the community with the main objective of reviving and developing economic, social and cultural activities, re-establishing law and order, as well as help fostering community participation in all aspects of community life in post-disaster situation.

In line with its responsibility relating to the management of groundwater, the Ministry of Energy and Mineral Resources (MEMR), through the Disaster Preparedness Team carry out an active role in ensuring the availability of access to water and basic sanitation sourced from ground water, namely by the construction of

bore wells. Between 2010-2020, the MEMR Disaster Response Team was involved in providing clean water to refugees of natural disaster events.

Principle of accountability (2018) (A/73/162)

Question(s):

9. In the last decade (2010-2020), what accountability measures exist when responsibilities for service provision are transferred from State to actors other than States (private entities, public companies and communities)? Please provide information on the three dimensions of accountability: clear roles and responsibility of actors; the guarantee of individuals to hold actors accountable by requesting explanations and information (“answerability”); and remedial or corrective actions for lack of compliance with performance standards (“enforceability”).

In 2016, the government issued Regulation of the Minister of Public Work and Community Housing Number 19/2016 concerning Support by Central and Regional Governments in Cooperation of the Operation of Water Supply System. The supply of water resources is conducted by state-owned or regionally-owned enterprises, with water resources management permit. These enterprises can establish cooperation to finance the need for drinking water supply operation system.

Related to the accountability of water service providers, the Government, through the BPP SPAM regularly conduct evaluation of the drinking water supply system provided by regionally-owned enterprises in order to fulfil quality requirements, demands, and continuity of supply system services drinking water.

10. In the last decade (2010-2020), what measures have been taken to identify informal providers of water and sanitation services and put in place regulations for those providers, making accountability mechanisms available?

All water services providers are required to acquire water resources exploitation permit, as well as establishing clear and sustainable business plan. In 2018, the Government issued Minister of Home Affairs Regulation 118/2018 which stipulated that the business plan is expected to create management system that directs and controls the company that will lead to produce sustainable economic benefits, as well as healthy and balanced relationship between stakeholders.

Furthermore, periodically, the central government requests local governments to collect data on informal water utilities. The central government also provides direction to local governments to promote and establish water utilities that are recognized and in accordance with statutory regulations.

11. In the last decade (2010-2020), what measures have been taken to establish an effective oversight system to trace the conduct of actors in the water and sanitation sector and to assess whether performance standards are met? What mechanisms exist that would enforce decisions on other accountable actors?

There are a number of assessment/evaluation system established by the Government which designed to oversee performance of water service providers, management of water system and quality of drinking water, respectively.

- Since 2005, the BPP SPAM, in coordination with the National Finance and Development Supervisory Agency (BPKP), has conducted regular performance evaluations on more than 380 water service providers in Indonesia. The evaluation is focused on the performance standards assessment based on 4 categories, namely financial, service, operational and human resources aspects. Until 2019, 58.9% of the total PDAMs evaluated display healthy performance. The results of this performance evaluation will be one of the references for the central government in determining future program.
- The supervision mechanism related to the operation of water supply system is regulated in the Minister of Public Work and People's Housing Regulation Number 27/2016 on the Management of Water Supply System (particularly Article 26, 27, and 28).
- The Government also established supervision on the quality of drinking water, as stated in the Minister of Health Number Regulation Number 492/2010 on Drinking Water Quality Requirements.

Spheres of life beyond the household (2019) ([A/HRC/42/47](#))

Question(s):

12. In the last decade (2010-2020), what measures have been in place to include water and sanitation in spheres of life beyond the household, and particularly in public spaces, in national policies, plans and implementation strategies, with a view to ensuring access which complies with the normative content of the human rights to water and sanitation and the principles of human rights?

The Government supports the provision of drinking water as a part of human rights, that is beyond the domestic and household life. Such support is seen in international and national level sports events, as well as for the provision of drinking water in areas that are categorized into National Tourism Strategic Area. Provision of drinking water is also directed to support activities in various public places, namely schools / universities, hospitals, and military bases.

In Law No. 17 Year 2019 on Water Resources, one of the clauses prioritized non-commercial public needs and fulfilment of minimum water needs over commercial activities. Non-commercial activities cover public spaces such as public parks, religious establishments, and other public / community establishments.

13. In the last decade (2010-2020), what examples exist where local governments are provided with guidelines and recommendation on how to determine which public spaces require the provision of water and sanitation services and what level and type of provision is required? How has those guidelines and recommendation been implemented?

The central government mandates local governments to provide 100% access to drinking water for the community. To support the achievement of these targets the Government issued regulations which serve as a guide for local governments. The central government also facilitates the preparation of cooperation agreements on the supply of drinking water. Most recently, the Government issued the white paper ("Buku Putih"), as a reference for technical implementation of drinking water supply in the regions.

In addition, the regional government has compiled the Rencana Induk Sistem Penyediaan Air Minum (RISPAM / water system master plan document) which is a piped water network planning document and contains the main components of the system and its dimensions. RISPAM is prepared by taking into account: (1) Water resources management plan; (2) Regional spatial planning, water system policy and implementation strategy; (3) Environmental, social, economic, and cultural conditions of the people in the local area and surrounding areas; (4) area conditions and development plans.

Mega-projects (2019) (A/74/197)

Question(s):

14. In the last decade (2010-2020), what examples of mega-projects exists where an assessment of the human rights impacts, in particular on water and sanitation, have been carried out at each stage of mega-projects*?
15. In the last decade (2010-2020), what examples of mega-projects exist where the human rights obligations and responsibilities of actors are clear at each stage of mega-projects*?
16. In the last decade (2010-2020), what examples of mega-projects exist where the assessment of human rights to water and sanitation is a precondition for granting a licence/approval?
17. In the last decade (2010-2020), what examples of mega-projects exist where there are preventive measures and compensation, redress and reparation procedures in place in the event of a disaster that affects the enjoyment of the human rights to water and sanitation?

In 2015-2019, the Government has formulated seven national strategic projects on drinking water supply system, which took place all across the country (Umbulan, Bandar Lampung, Semarang Barat, Mamminasata, Jatiluhur, Jatigede, and Wasusokas). All projects are planned through a series of feasibility studies. The feasibility study comprised of social study that explore the potential social impacts arising from the water system project development, both the impact on land acquisition and community land use. The components of this study include:

- a. Identifying affected parties;
- b. Identifying the social and economic characteristics of the affected parties;

c. Identifying the action plan and obligations that must be carried out by the actor(s) in charge of the project;

d. Determine compensation to be given to affected parties;

In addition to social studies, a Real Demand Survey (RDS) was carried out to determine the interest in subscribing from the community (willingness to connect) and their willingness to pay the water tariff charged to the them. The results of the RDS study can serve as inputs in determining tariffs and subsidizing drinking water tariffs. One objective of the RDS study is to ensure that all levels of society can access drinking water without worrying about termination due to inability to pay.
