**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)](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/70/203)

There exists different types of water, sanitation and hygiene services, ranging from connection to a piped network, shared facilities to individual on-site solutions. These types in conjunction with different management models - utilities, small scale providers, self-supply - result in several combinations. Each combination needs to be assessed depending on its context, and on how and to what extent it complies with the human rights to water and sanitation. The realization of the human rights to water and sanitation is influenced by the way in which these different types of services are delivered and the extent to which the State oversees the service provided. This discussion cannot be isolated from the contexts in which service types and management options are applied. Every measure that aims to ensure access to water, sanitation, and appropriate hygiene practices is implemented in a variety of contexts that strongly influence how human rights can be realized, including geophysical, political and economic contexts, and socio-cultural preferences.

Question(s):

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)?

**My work with civil society to hold governments accountable for the realization of human rights to water and sanitation shows that service provision is still largely driven by market allocation of these services. Tariffs are still not affordable to low income households. The public cannot access the accounts of the utilities to understand their performance.**

\*\*Type of services: connection to a piped network; shared or communal facilities; and individual on-site solutions. **The best and safe mode of accessing water and sanitation should be through network connection. Majority of slum and rural people in developing countries rely on site and shared facilities. These av all manner of health and physical risk to it, especially for women. They are exposed to rape and other forms of sexual harassment.**

\*\*\* 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. **There is massive discrimination on the management models. Rich urban people are the most beneficiaries of large scale and formal entities. The models often have lower tariff rates and higher quality services. Rural and poor slum people are the ones who mostly use small-scale, NGO or community run services. They are given the extra burden of running these services or contributing labor for digging trenches for pipe laying or cleaning the surrounding. They occasional have to contribute lump sums for the major repairs of the system which often times leads to people using all their savings (cash, goat, sheep) to offset the payment.**

# Gender equality (2015) [(A/HRC/33/49)](http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/33/49&Lang=E)

Gender inequalities are pervasive at every stage of women’s life: from infancy, through puberty, adulthood, parenthood, and late adulthood. When it comes to lack of access to water and sanitation, women and girls are disproportionately impacted as they are primarily responsible for water and hygiene at the household level and bear the greatest burden for collecting water. Although women may suffer disproportionate disadvantages and discrimination, they cannot be seen as a homogenous group. Different women are situated differently and face different challenges and barriers in relation to water, sanitation and hygiene. Intersectionality exacerbates gender-based inequalities, when they are coupled with other grounds for discrimination and disadvantages. Examples include situations when women and girls lack adequate access to water and sanitation and at the same time suffer from poverty, live with a disability, suffer from incontinence, live in remote areas, lack security of tenure, are imprisoned or are homeless. In these cases, they will be more likely to lack access to adequate facilities, to face exclusion or to experience vulnerability and additional health risks. Furthermore, other challenges include access to toilets for lesbian, gay, bisexual, transgender, intersex and gender non-conforming people as well as increased risk of gender-based violence.

Question(s):

1. 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?

# Development cooperation (2016 and 2017)

The first report [**(A/71/302)**](http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/71/302&Lang=E)provides a preliminary analysis of the linkages between development cooperation and the human rights to water and sanitation, addressing funders’ human rights approaches, the evolution of development cooperation in the sector and trends in funding patterns. Based on the theoretical framework developed in the first report, in the second report [**(A/72/127)**](http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/72/127&Lang=E), the Special Rapporteur examined how funders contribute to the realization of the human rights to water and sanitation through an empirical analysis of six case studies. After examining sixdifferent funders’ policies, operational tools, and project instruments, through the cycle of development cooperation, the Special Rapporteur found that the human rights framework is not adequately incorporated in their development agendas, with varying degrees of alignment to it. While some funders’ policies consider the human rights framework, particularly the human rights to water and sanitation, others are only sporadically aligned with those rights and reveal limited clarity regarding their application to development cooperation. Similarly, ﻿while most funders’ project assessments are mostly focused on attainment of project objectives and sustainability of services, a specific human rights-based assessment during and upon completion of projects was not observed.

Question(s):

1. 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:
2. 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;
3. 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;
4. 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;
5. Ensured reconciliation between a sustainable financing strategy for long-term service provision and the affordable access to services for all persons;

# Affordability (2016)

Affordability, as a human rights criterion, requires that the use of water, sanitation and hygiene facilities and services is accessible at a price that is affordable to all people. Therefore, the starting point for State decision-making on public financing and policy for water and sanitation service provision is that water and sanitation must be affordable to all. It is impossible to set a generally applicable affordability standard at the global level. Any such standard would be arbitrary and cannot reflect the challenges people face in practice and the context in which they live, including how much they need to spend on housing, food and the realization of other human rights. The affordability of water and sanitation services is highly contextual, and States should therefore determine affordability standards at the national and/or local level. Human rights framework stipulates an important set of parameters for the process of setting affordability standards, in particular in terms of participation. As a concrete way to ensure affordability for all and a sustainable system, States must develop appropriate pricing, tariff and subsidy structures. Mechanisms to ensure affordability in practice include public finance, targeted measures, social protection floors, tariff schemes and subsidies, among others.

Question(s):

1. 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)? **Some countries have social tariffs and others have block tariffs (Eg Ghana and South Africa). These measures are usually calculated per meter consumption which favours single family occupancy of a house. Poor people and migrant worker who usually live in multiple occupancy house get penalise. Their consumption are higher per meter reading and pay higher block tariffs per cubic meter of water consumed.**
2. 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?

# Service regulation (2017) [(A/HRC/36/45)](http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/36/45&Lang=E)

Regulation is an essential part of the human rights obligations. In the water and sanitation sector, service regulation can contribute towards the progressive realization of the human rights to water and sanitation. While the international human rights law does not call for a particular choice of regulatory framework, what is essential from a human rights perspective is that those carrying out regulatory functions be immune to pressures from any illegitimate interests and that the main objectives of regulation be aligned with the human rights framework. One of the key roles of regulation is to set performance standards from a human rights perspective as opposed to economic perspective. Regardless of the body carrying out regulatory functions, these standards should reflect and give practical meaning to the normative content of the human rights to water and sanitation with regard to availability, accessibility, quality and safety, affordability, acceptability, privacy and dignity.

Question(s):

1. 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? **Some governments have put in place regulars for utilities. The concept is still new in most developing countries. Their introduction has brought about some accountability measures in the sector, however there is still a lot to be done. The companies are always a step ahead of the regulator. In countries where there are regulators, they are captured by the utilities due to asymmetry of information. Ownership of private companies are becoming too opaque by the use of offshore companies. Their owners when private are more concern about profits/dividend for their share holders than running it efficiently(Eg Thames Water in UK) .** <https://www.waterbriefing.org/home/regulation-and-legislation/item/15108-ofwat-sets-out-plans-to-tighten-up-on-water-company-ownership-and-ring-fencing-requirements>

# Forcibly displaced persons (2018) ([A/HRC/39/55](https://www.ohchr.org/Documents/Issues/Water/A_HRC_39_55_EN.DOCX))

Forcibly displaced persons - in particular internally displaced persons, refugees, asylum seekers and migrants in vulnerable situations, while en route, at borders, at reception, and at the destination – suffer from inadequate access to water and sanitation, despite a wide international attention given to a recent spike in displacement. Some are forgotten in protracted situations and often do not receive what they desperately need, usually because they are not properly consulted. At times, forcibly displaced persons benefit from “life-saving” assistance quickly implemented by humanitarian actors, but these assistances are often without setting a time frame to move towards the progressive realization of the rights of displaced persons. Forcibly displaced persons are rights holders and hence, entitled to enjoy access to adequate drinking water and sanitation services, and not mere recipients of aids. Receiving countries cannot justify restrictions on the enjoyment of the essential content of economic, social and cultural rights based on a lack of resources. States have no justification for providing forcibly displaced persons with substandard water and sanitation services as a means to restrict their entry into the territory or as a means to deter people from staying.

Question(s):

1. 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?
2. 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:
3. Ensured equal access to the minimum essential amount of water that is sufficient and safe for personal and domestic uses and to prevent disease;
4. Provided the elements that every person needs for health and survival, and to live in dignity;
5. Monitored the extent of the realization of the human rights to water and sanitation;
6. Took measures to prevent, treat and control diseases linked to water and sanitation.

**Principle of accountability (2018)** ([A/73/162](http://undocs.org/A/73/162))

The complexity of actors in the water and sanitation sector and its specificities imply that the traditional State-centred human rights framework leaves gaps in the existing accountability mechanisms to hold actors other than States accountable. When the rights to water and sanitation are affected, it is not always clear to whom related action may be attributed, why such action was taken, how sanctions may be enforced against those who caused harm or how to remedy the situation. Further, globalization and the neoliberal wave have weakened the role of the State in the provision and regulation of water and sanitation services, and the imbalance of power has at times affected the exercise of the human rights to water and sanitation. This raises questions as to the effective regulation of private service providers and, in turn, poses challenges to accountability mechanisms, especially considering that those services are provided through a system of natural monopoly, with usually only one provider for a given territory. Another unique feature of the water and sanitation sector is the widespread presence of informal service providers that are not regulated and operate without a licence and that, as a result, may not be held accountable. Against this backdrop, the Special Rapporteur addresses the concept of accountability through three dimensions, namely, the roles and responsibility of actors, answerability and enforceability.

Question(s):

1. 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, pubic 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”).

**The private companies/consortiums/joint venture usually have the clear role of management the assets and providing services. In some cases, they are expected to bring in investments to expand the service. These are usually stipulated in their contracts. Regulators are established to serve as enforcers of accountability for utilities are privatised. The national Human Rights Institutions (NHRIs) are mandated to provide space for individuals to get answers for the violation of their rights to water and sanitation. From experience, majority of people do not know that the NHRIs have that kind of authority. Some staffs within NHRIs also do not know that their mandate on includes the right to water and sanitation. To bring this gap, we launched ClaimYourWaterRights campaign to mobilise and educate people as well the NHRIs about these rights. We have used other institutions like the media to hold service providers accountable. We have been successful in using them in Nigeria, Tanzania and Zambia. Use of the media with the voice of people who are affected has spurred the service providers and duty bearers to act. I have provided a evidence below via these links.**

**Nigeria:** <https://twitter.com/Temple_Oraeki/status/1226392189632155648>, <https://endwaterpoverty.org/Enugu-declares-water-emergency-Hope-Spring-Water>

**Tanzania:** <https://twitter.com/MacsTanzania/status/1252257520795684865/photo/1>

**Zambia:** <https://endwaterpoverty.org/1000-people-water-supply-restored-after-community-demand-human-rights-VAREN>

1. 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?
2. 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 exists that would enforce decisions on other accountable actors?

**Spheres of life beyond the household (2019) (**[**A/HRC/42/47**](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/42/47)**)**

The human rights to water and sanitation in spheres of life beyond the household are not an issue exclusive to specific groups of people but that all of us can be affected. Most spend a large part of our time outside of the home, particularly in our workspaces. However, many in the world do not share the same comfort. For instance, those whose workspace consists of open agricultural field or streets, such as rickshaw drivers and street vendors, cannot rely on toilets or water points because there are none around them. Public spaces, as zones accessible to all, are lifelines for numerous people and, accordingly, must be given due recognition in the water and sanitation policies of States. As a result of an evident neglect of the provision and promotion of water and sanitation services in such places, potential violations of international human rights occur and disproportionately impact members of vulnerable and marginalized groups, such as homeless people, informal workers in public spaces and persons deprived of their liberty.

Question(s):

1. 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?
2. 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?

**Mega-projects (2019) (**[**A/74/197**](http://undocs.org/A/74/197)**)**

Megaprojects are double-edged: they may contribute towards the enhancement of people’s livelihoods but may also impede the enjoyment of the human rights to water and sanitation. In order to prevent and mitigate the risks arising from such projects and to ensure compliance with human rights, the Special Rapporteur introduces a megaproject cycle framework for the realization of the human rights to water and sanitation, consisting of seven stages, each of them entailing impacts on access to water and sanitation, challenges and enabling factors to realize the human rights to water and sanitation. He clarifies each stage of the megaproject cycle and provides a list of questions that constitute guidelines for accountable actors to implement their human rights obligations and responsibilities.

Question(s):

1. 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\*?
2. 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\*?
3. 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?
4. 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?

\*The stages of mega-projects include:

* Macro-planning: Mega-projects are first identified as pillars of the development agenda, and are conceptualized.
* Licensing and approval: The process through which public authorities grant permission for its implementation after having reviewed its compliance with laws and regulations.
* Planning and designing: This stage takes into consideration the specifications of the project and involves selection of strategies, means, methods and resources for the implementation as well as identification of the location of the site operation and construction.
* Construction: The stage when actions taken by accountable actors have direct effect on the population and their access to water and sanitation
* Short-term operation: The operation stage begins when the infrastructure of a megaproject starts to be used to fulfil its purpose.
* Long-term operation: In the long-term, the bio-socioeconomic environment is dynamic, the deterioration of the infrastructure can occur and the prolonged exploitation of resources may exacerbate or introduce new and unforeseen impacts.
* Decommissioning and deactivation: The last stage is associated with various processes including decommissioning, or the closure of the mega-project. Additionally, in the event of disasters, the mega-project can also come to an end of its cycle where its physical structures are destroyed partially or as a whole.