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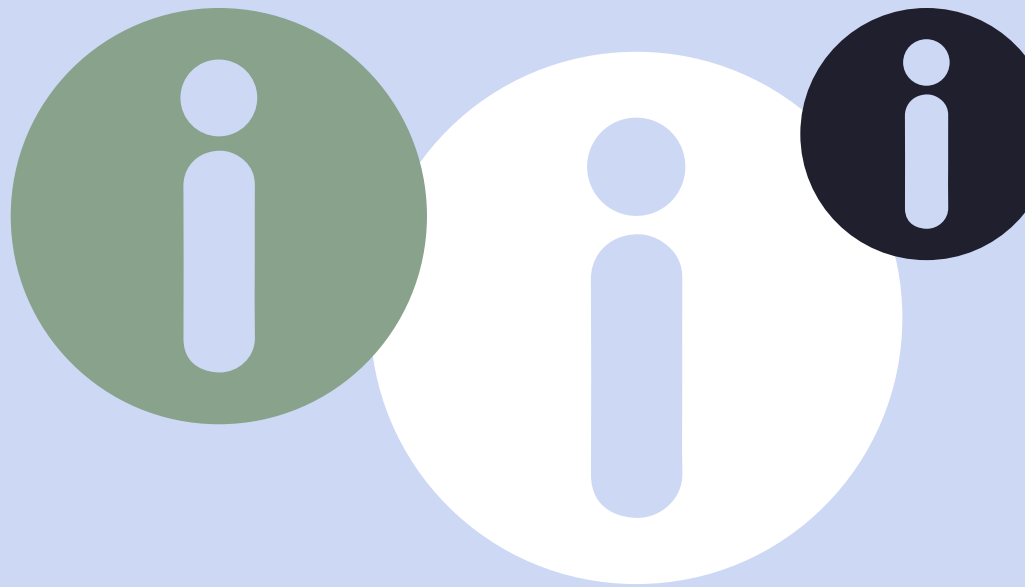
PUBLIC CONSULTATION ON PLANNING AND VISION OF THE MANDATE OF THE SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS TO SAFE DRINKING WATER AND SANITATION (2020-2022)

MODALITY OF CONSULTATION

- The duration of each consultation session is 1.5 hours.
- Consultation session will be based on pre-registered list of speakers. Participants are required to register and confirm if he/she will take the floor to speak (for 5 minutes) and if so, what question (in the discussion questions), he/she will address.
- Participants are asked to speak at one event only but are welcome to attend other sessions.
- Participants will receive the links to the registered session one day before the event.
- Consultation sessions follow the Chatham House rule and no reports of the consultation will be published. Sessions will not be recorded.

SCHEDULE

Spanish	1 December, 5 p.m. - 6.30 p.m. (CET)	<u>Register</u>
French	2 December, 10 a.m. - 11.30 a.m. (CET)	<u>Register</u>
English (1)	3 December, 10 a.m. - 11.30 a.m. (CET)	<u>Register</u>
English (2)	3 December, 5 p.m. - 6.30 p.m. (CET)	<u>Register</u>



BACKGROUND INFORMATION

At its forty-fifth session in September 2020, the Human Rights Council appointed Mr. Pedro Arrojo-Agudo as the Special Rapporteur on the human rights to safe drinking water and sanitation and he has effectively started this position on 1 November 2020.

At the selection process, the Special Rapporteur presented his preliminary ideas for furthering and promotion of human rights to water and sanitation to the Consultative Group of the Human Rights Council, including, among others, the following issues:

- Women defenders of the human rights to water and sanitation
- Human rights to water and sanitation of indigenous peoples
- Water-related conflicts and safety of human rights defenders
- Rural sanitation
- Strengthening links between Human Rights Council mechanisms, social movements and municipalities
- Commodification of water and privatization of services
- "Pollution-free" principle, focused on the most relevant toxic pollutants
- Massive climate-related displacement and growing informal settlements
- Strengthening the human rights-based approach in the work of UN-Water

In furtherance of the above-mentioned initial and preliminary vision, the Special Rapporteur is convening a series of public consultations, with the **aim to consult and to identify** salient issues/theme to focus during his first three years of the mandate.

The **outcome of these public consultations** will feed into his first report to the forty-seventh session of the Human Rights Council in September 2021 on planning and vision of his mandate. The activities and priorities of the first three years of the mandate will focus in the context of the triple global crisis: climate change, COVID19 pandemic and democratic governance, which pose important challenges to the implementation of the human rights to safe drinking water and sanitation.

THE HUMAN RIGHT TO SAFE DRINKING WATER AND SANITATION



The human right to water means that everyone is entitled to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements (General Comment 15).

The human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity (HRC resolution 33/10 and GA resolution 70/169). Sanitation can be defined as a “system for the collection, transport, treatment and disposal or reuse of human excreta and associated hygiene (A/HRC/12/24, para. 63).

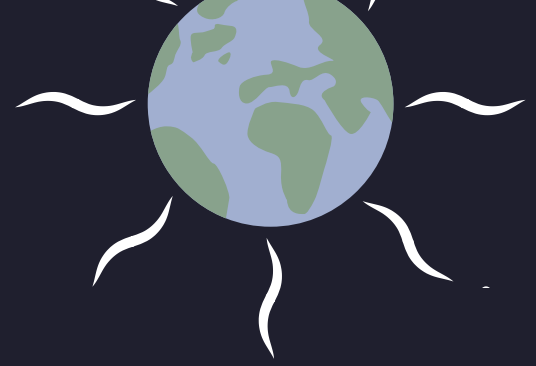
Human rights standard for hygiene: Certain human rights obligations related to hygiene can be inferred from the rights to water and sanitation, as well as the right to health, the right to food, the right to privacy, human dignity and other human rights. Hygiene includes, among others, handwashing at appropriate times, menstrual hygiene, management of child faeces and domestic food hygiene (A/70/203, para. 20).

In addition to the existing definition of the human rights to water and sanitation, the Special Rapporteur highlights that water management assigns different priorities and management criteria depending on the types of existing uses. "The important thing in water is not so much its materiality, H₂O, but what we use it for. It is not the same to use water to fill a pool as it is to guarantee the minimum essential amount of water that every person, family or community they need for a dignified life".

For this reason, the Special Rapporteur distinguishes usage of water in the following ways:

- “Water for life”: water used and required for human life should be of the highest priority.
- “Water for people”: water used for domestic and personal usage including sanitation services involves both the entitlement and rights of people but also corresponding duties.
- “Water for the economy”: water used for legitimate activities for economic development should not take priority over “water for life” and “water for people”.
- “Water for crime”: water used for illegitimate activities that affects and violates human rights as well as the sustainability of the environment should be condemned and sanctioned.

TRIPLE GLOBAL CRISIS: CLIMATE CHANGE



Today, there is a general consensus that the key vector in the generation of climate change is the energy vector. However, the main vector of social impact is the water vector, as a consequence of the growing risks of droughts, heavy rainfall and river floods. As often happens, although the whole of society is and will be affected, the most impacted are and will be those already in most vulnerable situations, increasing their difficulties in accessing drinking water, causing catastrophic bankruptcies in rural economies and generating massive climatic migration phenomena.

The importance of climate change in the context of the human rights to safe drinking water and sanitation has been highlighted at the international level. In its seventy-fourth session in 2019, the United Nations General Assembly adopted resolution 74/141 (18 December 2019) in which it expressed concern that climate change contributes to events that have adverse effects on human rights to water and sanitation:

"Expressing concern that climate change has contributed and continues to contribute to the increased frequency and intensity of both sudden-onset natural disasters and slow-onset events, and that these events have adverse effects on the full enjoyment of all human rights, including the human rights to safe drinking water and sanitation, and recalling the need to enhance adaptive capacity, strengthen resilience and reduce vulnerability to climate change,"

The resolution further recognized that consequences of climate change are felt most acutely by populations already in vulnerable situations.

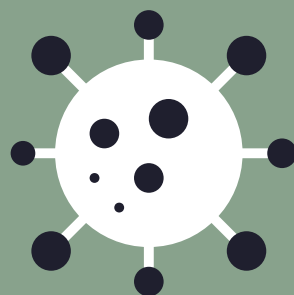
"Recognizing that, while the implications of climate change-related impacts and environmental damage for the enjoyment of the human rights to safe drinking water and sanitation affect individuals and communities around the world, the consequences are felt most acutely by those segments of the population that are already in vulnerable situations, such as people living in informal settlements, people living in small island States and rural and local communities, and recognizing also that indigenous peoples, because of their specific situation and nature, may be among the first to face the direct consequences of climate change owing to their dependence upon and close relationship with the environment and its resources,"

One year, later at its forty-fifth session, the Human Rights Council adopted resolution 45/8 (9 October 2020) which further highlighted the impact of climate change on population already in vulnerable situations by specifically referring to:

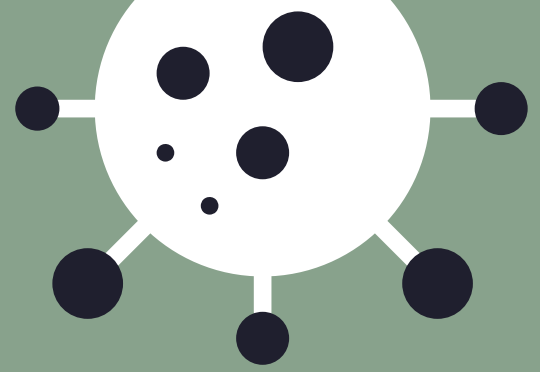
"[...] people facing desertification, land degradation, drought and water scarcity, and rising water levels due to storm surges, sea level rise and flooding [...]"

The former Special Rapporteur, Léo Heller, addressed the issue of climate change in the context of human rights to safe drinking water and sanitation from the water availability dimension, emphasizing that a regulatory interpretation of "availability" should also consider situations where additional supply of water is required due to health issues, climate conditions (i.e. drought). He further highlighted that preparedness is also vital in the context of climate change, which is increasingly becoming a major cause of displacement. (See Annex on the work of the mandate).

The Special Rapporteur notes that climate change is one of the global threats that hinders the exercise and enjoyment of human rights to safe drinking water and sanitation. In the context of climate change, the relationship between the full realization of the human rights to safe drinking water and sanitation and the sustainability of the environment needs further attention. Freshwater from rivers and aquifers is often the only source of drinking water and water for personal and domestic usage for those in most vulnerable situations and therefore, bankruptcy of sustainability, and especially toxic pollution, of those natural water sources have dire consequences on those who rely on them. Climate change has further aggravated the challenges faced by those who are in vulnerable situations; all existing problems have become grave and climate change has accelerated the need of sustainability on one hand and the relationship between social and environmental values, on the other hand.



TRIPLE GLOBAL CRISIS: COVID-19 PANDEMIC



The COVID-19 pandemic underscores the vital need to guarantee access to water and sanitation, particularly to those in the most vulnerable situations. Adequate hygiene with soap and water, mask, distance and ventilation are the keys to what we call the global prevention against COVID-19 that we have for now, until effective vaccines arrive. In fact, having water and sanitation has saved and will continue to save hundreds of thousands of lives. However, in many countries and in many cities, water is cut-off for impoverished families who cannot pay.

The impact of COVID-19 not only continues to be devastating for the health and well-being of people around the world, but also continues to increase poverty and the vulnerability of millions of people. In this context, in which poverty and inequality are evermore growing, it is necessary and more urgent to guarantee universal access to water and sanitation, foremost because they are human rights, and also because they are essential to achieving adequate hygiene that allows to curb infections and combat the pandemic.

Recently, at its forty-fifth session in September 2020, the Human Rights Council adopted resolution 45/8 (9 October 2020) in which it expressed the deep concern that COVID-19 exacerbates existing inequalities:

“Deeply concerned that the COVID-19 pandemic perpetuates and exacerbates existing inequalities, and that those most at risk are persons in vulnerable and marginalized situations, recognizing the need to expand as a matter of utmost urgency access to adequate water and sanitation services, including for menstrual hygiene management, and to ensure continued access to existing services in this regard, and gravely concerned that 3 billion people worldwide lack basic hand-washing facilities at home, which is the most effective method of preventing the spread of COVID-19”

Recognizing the need to expand access to water and sanitation, the Human Rights Council called upon States:

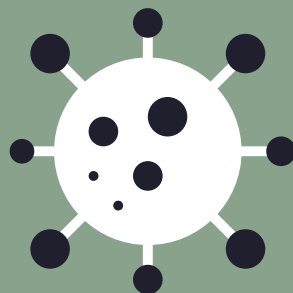
“(j) To take measures to accelerate the realization of the human rights to safe drinking water and sanitation, in line with the Sustainable Development Goal 6 global acceleration framework, in particular in the context of responding to and preventing the spread of COVID-19, including by working collaboratively with all stakeholders in a coordinated manner to improve water and sanitation services and by ensuring that water and sanitation systems are resilient and sustainable in order to protect people’s health and support national health systems”

The former Special Rapporteur, Léo Heller, at the beginning of the COVID-19 pandemic, stressed that the minimum essential amount of water required as a human right must include water for cooking as well as water for adequate hygiene with frequent hand washing, as a necessity to prevent the spread of the disease. Further, he highlighted that during the COVID-19 pandemic, responses should be focused on providing access to water and hygiene facilities to persons in homelessness, migrants and asylum seekers living in public spaces and to those living in informal settlements where access to water and sanitation is inadequate (A/HRC/45/10, paras. 32-34, 53 and See Annex on the work of the mandate).

In order to assist States to implement the above-mentioned call by the Human Rights Council to progressively realize the human rights to safe drinking water and sanitation and to respond to and prevent the spread of COVID-19, the Special Rapporteur plans to focus on COVID-19 and its implications on the human rights to safe drinking water and sanitation.

As the first steps to address the COVID-19 pandemic, the Special Rapporteur recently issued:

- A joint statement calling governments around the world to implement or reinstate the policy of prohibiting water cut for those who face difficulties to pay for the service ([English](#), [Spanish](#), [French](#))
- An appeal to human rights defenders to participate project on “Prohibition of water disconnection: from a social shield to safeguarding human rights” ([English](#), [Spanish](#), [French](#))

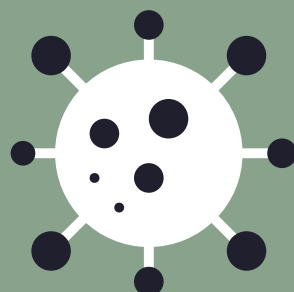


TRIPLE GLOBAL CRISIS: THREATS TO DEMOCRATIC GOVERNANCE



The financialisation of social life especially affects public services, weakening or nullifying the sense and logic of the general interest. And when these social services affect human rights, as in the case of water and sanitation services, the risks that are generated for the effective fulfilment of these rights in populations in vulnerable situations grow and multiply. The former Special Rapporteur focused his last thematic report on the risks derived from the commodification of water and the privatization of water and sanitation services.

In planning his mandate, the Special Rapporteur takes into account this third and important dimension of the global crisis by democratic governance, in particular, in the management of water and sanitation services. It will be necessary to develop mechanisms to implement and promote meaningful participation, enhance transparency for both State and non-State actors and empower communities and individuals in vulnerable situations. Further, it would be necessary to commit to gender mainstreaming and develop a human rights-based approach for the management of water and sanitation services.





QUESTIONS FOR DISCUSSION

In order to plan the next three years of the mandate and to prioritize themes, the Special Rapporteur asks representatives of civil society with experience in human rights to water and sanitation and/or the WASH sector the following questions:

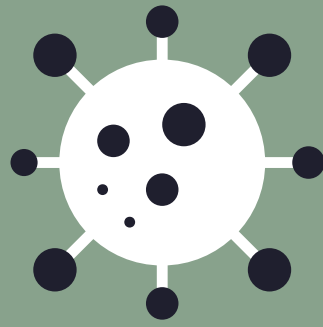
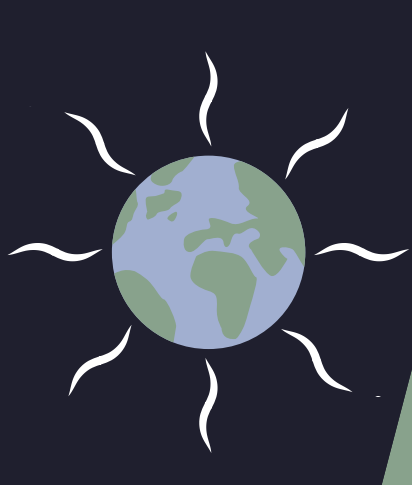
1. In the context of the climate change, COVID-19 and the threat to democratic governance (“triple global crisis”), what are the main challenges that you face in your work to contribute towards the full realization of the human rights to water and sanitation?

2. In your observation, how has the triple global crisis exacerbated inequalities in access to water and sanitation? What additional and other vulnerabilities has the triple global challenge created in relation to the human rights to safe drinking water and sanitation?

3. In your observation, what aspect of the normative content of the human rights to water and sanitation (i.e. availability, accessibility, quality and safety, acceptability, privacy and dignity, affordability) has been most impacted by the triple global crisis?

4. What existing measures (legal, policy, administrative, technical) or non-existence of those measures have posed challenges in your work to contribute to the full realization of the human rights to water and sanitation? (e.g., lack of regulation on minimum essential amount of water? lack of regulation on prohibition of water disconnection?)

5. Who is impacted most by the triple global challenge when it comes to exercising human rights to water and sanitation? What specific impact/vulnerability do those groups suffer in general due to triple global challenge and specifically related to water and sanitation?



ANNEXES - CLIMATE CHANGE

1. CLIMATE CHANGE IN THEMATIC REPORTS BY THE MANDATE OF THE SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS TO SAFE DRINKING WATER AND SANITATION

A/HRC/36/45 on service regulation – Para. 43

*Regulations should give a practical meaning to “availability” and ensure, at least, access to a minimum essential amount of water that is sufficient, reliable and safe for personal and domestic uses to prevent disease. According to the World Health Organization (WHO) guidance, an intermediate level of access, to 50 litres per person per day, represents a low level of health concern (provided that absence of contamination is rigorously assessed), while an optimal level of access, to 100 litres per person per day, represents a very low level of health concern. **A regulatory interpretation of “availability” should also consider situations where additional supply of water is required due to health issues, climate conditions (i.e. drought), emergency/disaster situations, work conditions, or any other special circumstances; and situations of disruption to water supply.***

A/HRC/36/45 on service regulation – Para. 7

*The human rights obligations of States are classified as obligations to respect, to protect and to fulfil. The obligation to respect requires that States’ regulatory frameworks refrain from interfering directly or indirectly with people’s existing access to water and sanitation. To that end, States must ensure that their regulatory framework prohibits disconnections from water and sanitation services due to users’ inability to pay, as it is a retrogressive measure and violates the human rights to water and sanitation, must ensure, when extending piped networks to informal settlements, that these services are affordable so as not to interfere with people’s access, and must avoid discriminatory or unaffordable increases in the price of water and sanitation services due to inadequate regulation. Furthermore, **preparedness for situations of armed conflict, emergency situations, natural disasters and effects of climate change requires that States embrace in their regulatory frameworks the obligations relevant to water and sanitation provision pursuant to international humanitarian law.***

A/HRC/39/55 on forcibly displaced persons – Para. 63

Preparedness is also vital in the context of climate change, which is increasingly becoming a major cause of displacement. Since 2008, an estimated 22.5 million people per year have been displaced, internally or across borders, by weather or climate-related disasters (see A/HRC/37/35, para. 5). The adverse effects of climate change have a disproportionate impact on the poor, children, women, persons with disabilities, indigenous people and minorities. [...]

A/75/208 on privatization – Para. 40

*Increasingly frequent water scarcity and other events related to **climate change** have required strategic planning and investments that anticipate those situations. During the 2014 water crisis that ravaged the metropolitan region of São Paulo, Brazil, the company in charge had been aware since at least 2009 that by 2015 new water sources would be necessary to guarantee service continuity. However, the company failed to preventively invest in infrastructure for water security, affecting millions of users. Nevertheless, dividends paid to shareholders during that period were always higher than the minimum threshold defined by law (25 per cent of yearly surplus), reaching a peak of 43.9 per cent in 2011.*

2. CLIMATE CHANGE IN OUTREACH ACTIVITIES

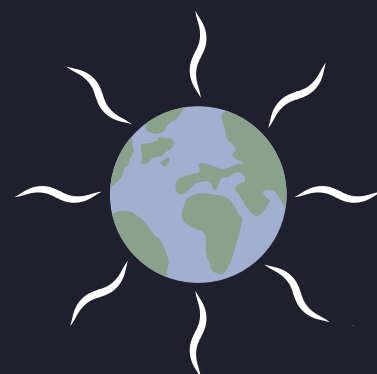
World Water Day celebrations

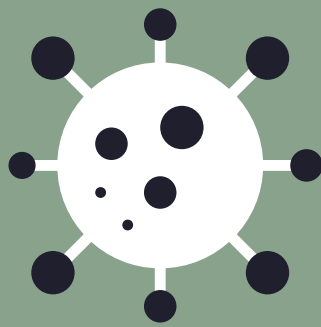
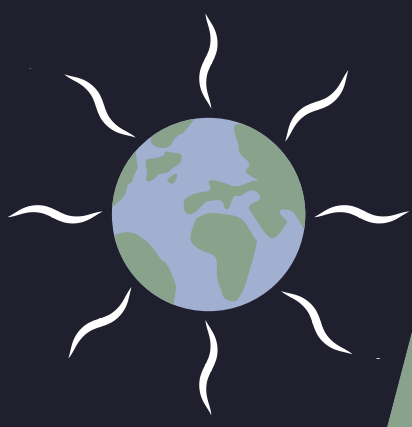


Video 1. Climate change: impact on the human rights to water and sanitation

Video 2. Climate change: how can we prepare?

Video 3. Climate change: what guidelines for water and sanitation?





ANNEXES - COVID-19

3. COVID-19 IN THEMATIC REPORTS BY THE MANDATE SPECIAL RAPporteur ON THE HUMAN RIGHTS TO SAFE DRINKING WATER AND SANITATION

A/HRC/45/10 on progressive realization – Para. 52

*The fact that a State is experiencing an emergency or financial crisis does not alter the nature or content of its core obligations, which must still be met immediately. Given the imperative and immediate nature, however, States may decide to fulfil only the levels required for the minimum core without progressing towards the full realization of the human rights to water and sanitation. For example, meeting the needs for both sufficient and safe water has shown to cause conflicts. In certain situations, water quantity is explicitly prioritized over water quality; in others, water availability is prioritized over other factors. **For instance, during the COVID-19 pandemic, the availability of sufficient water has been emphasized due to the need for frequent handwashing to avoid contracting the virus.** On the other hand, water safety needs to be prioritized when the available water source is heavily contaminated. The question arises as to whether, in some exceptional situations, a certain element of normative content should be prioritized over others.*

A/HRC/45/10 on progressive realization – Para. 53

*In reality, it is rarely possible for any State to reach the minimum levels of all the normative content of the human rights to water and sanitation and to maintain that standard throughout emergency situations and financial crises. By default, while aiming to reach the minimum core obligation across the normative content in full, States decide to prioritize which content of the human rights to water and sanitation to implement first and the subsequent priority of implementation. The human rights framework does not provide any definitive answers to questions of prioritization, as each question needs to be answered given the particular context in which it arises. It does, however, provide guidance on the basis of human rights concepts, in particular the obligation to target and prioritize the most disadvantaged in order to realize the right to equality. **In applying this guideline to the specific situation of the COVID-19 pandemic, responses should be focused on providing access to water and hygiene facilities to persons in homelessness, migrants and asylum seekers living in public spaces and to those living in informal settlements where access to water and sanitation is inadequate.***

A/HRC/45/10 on progressive realization – Para. 32-34

The availability of water and sanitation requires States to ensure access to the minimum essential amount of water that is sufficient and safe for personal and domestic uses to prevent disease. In specifying the “minimum essential amount” of water, the Committee on Economic, Social and Cultural Rights notes that while 20–25 litres per person per day is enough to ensure human survival, that amount poses a high health risk, as hygiene cannot be assured. The minimum amount of water which is considered essential varies across States: in Italy, for instance, people living under the national poverty line are entitled to 50 litres per person per day.

*The average amount of water required for human survival needs to be applied in context. **For instance, during the coronavirus disease (COVID-19) pandemic, the level of water considered necessary for domestic use must include water for frequent handwashing, which is the primary means of preventing the spread of the disease.** The following questions could provide guidance:*

(a) What is the minimum essential amount of water and what is the minimum essential level of sanitation needed for a specific person or group in a specific social, economic and environmental condition to avoid intolerable health risks and provide privacy and dignity?

(b) How long does it take individuals to collect the minimum amount of water they need?

4. COVID-19 IN COMMUNICATION LETTERS SENT BY THE SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS TO SAFE DRINKING WATER AND SANITATION

The Covid-19 pandemic revealed both the challenges and the importance of universal access to clean water, sanitation, and hygiene to prevent the spread of disease. It is therefore not surprising that the Special Rapporteur addressed 7 cases related to the virus during the first months since its outbreak.

*Urgent appeal [KEN 1/2020](#) details information about the **forced eviction of 7000 families in Nairobi in the midst of the Corona pandemic**, in order to use the land for a development project. The restrictions of movement in place to contain the pandemic had severely impacted the capacity of the evictees to relocate outside of the capital. One of the concerns mentioned in the communications letter is that by rendering the evictees homeless, their access to water and sanitation necessary to follow the ministry of health’s recommendation to frequently wash hands was significantly jeopardised. The government of Kenya did not respond.*

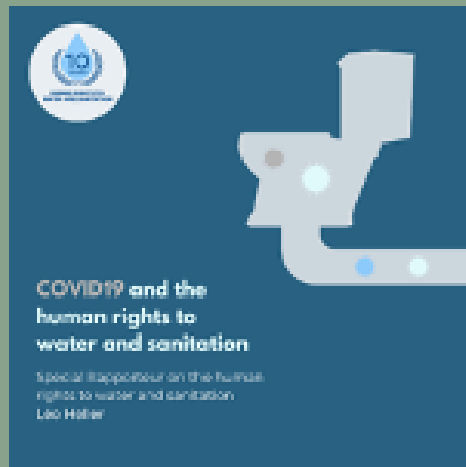
*In [VEN 6/2020](#), the Special Rapporteur expressed serious concern about the situation of the **Venezuelan health system in the face of the Corona-crisis**. Given that according to the 2019 National Hospital Survey, 78 percent of hospitals in the country experienced water supply failure, 63 per cent electricity cuts, and only 20 percent of intensive care units were functioning, the Special Rapporteur worried that an increase in Covid-19 cases would exceed the health system’s capacity. No response has been received from the government of Venezuela.*

5. COVID-19 IN OUTREACH ACTIVITIES

Press release: "COVID-19 will not be stopped without providing safe water to people living in vulnerability – UN experts"



Video: COVID19 and handwashing
[English](#) | [Français](#) | [Español](#)



Video COVID19 and adequate sanitation
[English](#) | [Français](#) | [Español](#)



Video COVID19, gender and water
[English](#) | [Français](#) | [Español](#)

