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The Permanent Mission of Brazil to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honor to transmit, enclosed, the answers to the questionnaire of the Special Rapporteur on the right to safe drinking water and sanitation, of 28 January 2014, on the issue of the 'Participation of Communities and Individuals on the Accomplishment of the Human Right to Drinking Water and Sanitation'.

The Permanent Mission of Brazil 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, 17 April 2014.

To the
Special Rapporteur on the human right to safe drinking water and sanitation
Sustainable Human Development Section
Special Procedures Branch
Office of the High Commissioner for Human Rights
Geneva

THE PARTICIPATION OF COMMUNITIES AND INDIVIDUALS ON THE ACCOMPLISHMENT OF THE HUMAN RIGHT TO DRINKING WATER AND SANITATION

1) Indicate and describe a participatory process or processes in your country that are related to the human rights to water and/or sanitation.

Brazil acknowledges that the implementation of an urban policy geared towards the promotion of accessible and inclusive cities is a major challenge to public management. In order to achieve this goal, it is necessary to break a pattern that contributes to widen inequalities in the cities and to strengthen a new institutional model where the implementation of local or national policies for urban development (land, housing, sanitation, transportation and mobility) is thought and managed with social participation.

One of the main participatory processes related to the human rights to water and/or sanitation in Brazil can be found in the periodic organization of the "National Conference of the Cities" and in the activities of the "National Council of the Cities" (ConCidades).

The preparation of these conferences, in every level of the federation, together with the activities of the Council, are grounded on principles of social participation and social control, which contribute to bridging the gap between the governments' actions and the aspirations of the population.

In the national context, the Council of the Cities was established and its members initially elected in 2003, during the 1st National Conference of the Cities. For more than ten years, it has been a dynamic forum for debates and recommendations, thus contributing to the implementation of deliberations from the 1st, 2nd, 3rd, and 4th conferences and to the elaboration of the urban development policy. Therefore, the Council represents the concrete possibility of consolidating a model of broad participation and social control in the building of a new urban policy, accessible to the citizens.

The conference is a process that begins in the municipalities, in what is known as the cities conferences, which elect the delegates for the state conferences, which, in turn, elect the delegates for the national conference. Besides the election of delegates in each one of these steps, the guidelines for the urban development policy are also discussed, including guidelines related to sanitation policy. In the national step of the conference, they elect "ConCidades" counselors, as well as the guidelines and priorities for the urban policy to be implemented by the federal government.

The Council of the Cities, in turn, constitutes an important tool for the participatory management of the National Urban Development Policy (NUDP). It is a joint committee of deliberative and advisory nature, which integrates the structure of the Ministry of the Cities, and which has the purpose of studying and proposing guidelines for the formulation and implementation of the NUDP, as well as following-up its implementation. ConCidades enables a continuous debate on urban policy, with due respect to the autonomy and specificities of its segments, such as: the productive sector;

social organizations; NGOs; professional, academic, and research entities; trade unions; and government departments.

ConCidades, whose ordinary meetings take place in average four times a year, is a forum where social actors participate in the decision-making process about the policies implemented by the Ministry of the Cities in the areas of housing, sanitation, transportation, urban mobility and territorial planning. The plural inception of these bodies and entities and their traditional activism in issues related to urban development enable the different actors to articulate their activities based on a participatory approach and the access to information necessary to ensure the technical quality of the debates, as well as the adoption of public policies accessible to all citizens, always having as a benchmark the deliberations coming from the National Conference of the Cities.

One of the main lessons learned in the course of ConCidades's history refers to the fact that the quality of democracy improves when public authorities join the accrued experience of the organized civil society and increase their participation on the elaboration and execution of programmes and public policies. Besides, the Council of the Cities has Technical Committees responsible for sectorial discussions and in case of the human rights to drinking water and sanitation, the Committees have often been guided by the Technical Committee for Environmental Sanitation.

2) Which authorities and organizations are involved on the design and facilitation of the process?

The Ministry of the Cities (MCidades) is the government agency that coordinates ConCidades. The Council is headed by the Minister of the Cities, and the executive secretariat is also headed by the MCidades. Like the conferences, eight sectors of society are represented in ConCidades: federal, state, and municipal authorities; workers; businessmen; popular movements; NGOs; and professional, academic and research entities. Those sectors, which are represented by several bodies and entities elected at the National Conference of the Cities, also participate in the outline and facilitation of the process, through discussions performed in the context of the Council, like the Executive Coordination of the joint committee.

a) What are the costs of designing and facilitating the process? Who covers the costs?

It is hard to estimate the exact costs involved in the process. Most of them refer to indirect costs related to the activities of civil servants in charge of the executive coordination of ConCidades and its Technical Committees, besides the whole infrastructure, like, for example, physical space, in the Ministry's own headquarters. The costs are fully covered by the General Budget of the Federal Government.

b) What does the process seek to ensure – participation in legislative proposals, policy-making, budgeting, service provision or other measures?

Important achievements in the sanitation sector began with initiatives launched by

ConCidades, such as the legislative bill that resulted in the adoption of Law n. 11.445/2007, which instituted national guidelines for basic sanitation. The document entitled "Pact for Basic Sanitation: More Health, Quality of Life and Citizenship", which establishes, in general lines, the conception of the National Plan of Basic Sanitation - PLANSAB, adopted by the Federal Government in December 2013 - and is a landmark for the mobilization and articulation process aiming at its elaboration, also results from the activities of ConCidades.

The counselors also participate on workshops for the elaboration of the federal government's Multiyear Plan (PPA), which approves the federal budget each four years.

c) At which level does the process take place – the national, local or international level?

ConCidades' activities take place on the national level and the measures that it adopts have national reach. On the other hand, the Conferences of the Cities result from a process that starts at the municipal level, then takes place at the state level and finally occurs at the national level. Therefore, the Conference of the Cities mirrors the aspirations and demands originated in the local context.

3) Has there been a history of mobilization in your country to ensure participation in the decision-making? How has your government responded to people's demands for (increased) participation?

ConCidades, as mentioned before, was created in 2003. Before that, there was the National Council of Urban Policy, created in the 90's. Since the creation of ConCidades, several progresses were achieved with a view to broadening social participation in the decision-making process. The organization of the conferences can be considered as an answer to the demands of the population for more participation. Besides, the creation of municipal councils has been encouraged by the federal government. It is important to highlight that the cities that do not institute, through specific regulation, the social control performed by the joint committee, cannot access federal resources intended for basic sanitation services from 2015.

4) Is there a legal or policy basis for participation? Specifically, is the participation with respect to improving access to water and sanitation provided for in legislation, policy or practice in your country?

The main law that addressed the participation of the population in the urban policy was the Statute of the City, Law no 10.257/2001, which established the need for social participation and several mechanisms for making it feasible. Law n. 11.445/2007, known as Sanitation Law, also addressed the question of social participation, specifically focused on this sector. In addition, Decree n. 7.217/2011, which regulated the Sanitation Law, made further progress by defining some instruments and linking the existence of joint committees to the access of federal resources, according to the previous question.

5) How have the geographical reach of participatory processes and the concerned individuals and groups been defined? How do processes ensure inclusiveness? How do processes seek to ensure that not just major stakeholders, but also concerned individuals can participate? Are certain individuals or groups meant to represent others? How does the system of representation work? What is the role of the NGOs in such processes? Do they represent someone, if anyone?

The geographical reach of the conferences is ensured by the fact that the conferences take place first in the cities and in the states and only after those two phases are completed the conference takes place at the national level. The inclusion is ensured by the fact that eight social sectors, representative of the whole of society, participate in the process. The meetings are opened to guests and listeners. The bodies and entities elected in the conference process represent their bases and social sectors. The NGOs are one of the eight representative segments and, normally, their representation is related to their field of activity.

6) What are the opportunities for participation? Are there officially organized consultations, hearings and opportunities to submit written responses and online fora? What measures are in place to enable people to participate? What measures are taken to overcome barriers faced by people, in particular marginalized groups and individuals? What channels have been used to disseminate information about the envisaged measures and the participatory process?

In addition to the process of conferences and the municipal, state, and national councils, in some specific circumstances consultations and public hearings take place, as well as seminars and workshops. This was the case, for example, of the National Plan of Basic Sanitation - PLANSAB – which relied on the realization of regional seminars, consultations and public hearings.

7) How are the inputs taken into account? What is the impact of the participatory processes on decision-making and the design of measures and policies? What follow-up has been put in place? Are people informed about the outcome of processes? Are they informed about whether and how their proposals have been taken into account?

The logic of social participation has been based on the accomplishment of the "requirements" established in the question above. Thus, what has been sought is that the participatory processes impact on the decision making and on the outline of the political measures. Likewise, reaching out to people, so that they have information on the outcome of the processes and proposals, has been sought.

That was the case of PLANSAB, where the 649 contributions resulting from the public consultation were analyzed one by one and the answers disclosed at the website of the Ministry of the Cities. Such proposals were classified as "accepted", "partially accepted", "already present in the Plan", "to be considered in further details phases or

Plan review", "not framed in the format of public consultation", or "not accepted". And, for each one of them, a justification for the decision made was presented.

8) Would you describe the participatory processes as successful? If the specific process referred to has completed, please comment on what accounts for its success or failure. Has the process been evaluated? What lessons does it offers for future processes?

The processes can be considered successful, since they have advanced each year, with the widening of the instruments and mechanisms of social participation and, at the same time, with the widening of the deliberative nature of the participation and social control instances. However, the process cannot be considered as completed, since what is being sought is a continuous process, which has been constantly assessed by academic works and governmental research institutes, with a view to its improvement.

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