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

**Questionnaire**

**non-States**

The Special Rapporteur’s thematic report to the 45th session of the Human Rights Council, to be presented in September 2020, will focus on the progressive realization of the human rights to safe drinking water and sanitation. For general guidance, the Special Rapporteur provides a brief introduction of the main concepts of the report and requests responses to questions relating to those concepts.

Please submit your responses to srwatsan@ohchr.org no later than 17 April 2020.

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**Minimum core obligations**

All human rights are fundamental and each right gives rise to inviolable entitlement. The inviolable element of a right is the intangible baseline or a basic minimum for the action of all governments that must be guaranteed for all persons in all contexts.[[1]](#footnote-1) They are the most basic, lowest levels that all people should be afforded in all circumstances.[[2]](#footnote-2) It indicates a minimum below which no government should perform, even in unfavorable conditions or against any compelling interests. In simple terms, the minimum core content of each right can be compared to a ‘floor’ below which the conditions should not be permitted to fall or a ‘house’ of various entitlements within rights in a feasible structure.

Each human rights within the International Covenant on Economic, Social and Cultural Rights (ICESCR) have been determined to contain a set of ‘minimum core obligations’ which states are obliged to meet immediately, and maintain at all times.[[3]](#footnote-3)

In the context of the human right to water, in its General Comment no. 15, the Committee on Economic, Social and Cultural Rights (CESCR) has stipulated eight minimum core obligations, namely:

“(a) To ensure access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease;

(b) To ensure the right of access to water and water facilities and services on a non-discriminatory basis, especially for disadvantaged or marginalized groups;

(c) To ensure physical access to water facilities or services that provide sufficient, safe and regular water; that have a sufficient number of water outlets to avoid prohibitive waiting times; and that are at a reasonable distance from the household;

(d) To ensure personal security is not threatened when having to physically access to water; (e) To ensure equitable distribution of all available water facilities and services;

(f) To adopt and implement a national water strategy and plan of action addressing the whole population; the strategy and plan of action should be devised, and periodically reviewed, on the basis of a participatory and transparent process; it should include methods, such as right to water indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all disadvantaged or marginalized groups;

(g) To monitor the extent of the realization, or the non-realization, of the right to water;

(h) To adopt relatively low-cost targeted water programmes to protect vulnerable and marginalized groups;

(i) To take measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation.”[[4]](#footnote-4)

**Question 1.** Of the minimum core obligations for the human rights to water and sanitation listed above, which are well reflected in policy, plans and projects of a country, and which are not well reflected? Please provide information about countries that you are familiar with or work in.

**Progressive realization**

The fulfilment of economic, social and cultural rights depends upon the availability and use of resources and might imply long-term implementation period. The principle of progressive realization can be understood as guidance for State parties to fulfil their duties to take steps to realize the human rights to water and sanitation.

Article 2(1) of the ICESCR articulates what is generally referred to as the obligation of progressive realization, clarifying that “Each State Party to the present Covenant undertakes to take steps […] to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant.” In terms of its application, CESCR notes that “while the full realization of the relevant rights may be achieved progressively, steps towards that goal must be taken within a *reasonably short time* after the Covenant’s entry into force for the States concerned. Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.”[[5]](#footnote-5)

In the context of water and sanitation, the principle of progressive realization asks how the country has progressed in terms of its provision of water and sanitation services and what plans are in place, which envisions the expansion of those services while being compliant with the human rights to water and sanitation. This calls for a clear identification of the requirements to achieve equal access to an adequate level of those services for all people without discrimination. Progressive realization of the human rights to water and sanitation is not only about increasing the coverage and levels of services, but it also entails decreasing inequalities between different groups and populations.

**Question 2.** In context of the countries that you are familiar with or work in, please describe efforts made by the government in the last few years that allowed the progressive realization of the human rights to water and sanitation.

**Question 3.** In context of the countries that you are familiar with or work in, please describe how planning in the water and sanitation sector is guided by the principle of progressive realization of the human rights to water and sanitation, and how it reconciles the two priorities - increasing levels of access to services on one hand, and reducing inequalities between different groups on the other.

**Maximum of available resources**

The dependency of the availability of resources for enjoyment of economic, social and cultural rights means that for individuals to fully enjoy those rights, the maximum available resources should be utilised to the extent possible. The concept of ‘maximum of available resources’ refers to the utmost effort that should be given to fully realize economic, social and cultural rights.

In undertaking to meet its obligations to respect, protect, and fulfil the rights contained within the ICESCR, a State party to the Covenant must utilise the ‘maximum of its available resources’. The maximum available resources can include many different types of resources, including financial, human and technical resources required to progressively realize the human rights to water and sanitation. Even when resources are limited, States must make all efforts to improve its budget execution, spending all the allocated funding timely and effectively.

In the context of water and sanitation, using maximum of available resources is an important element, as achieving universal coverage of human rights-compliant water and sanitation services is likely to be a resource-intensive exercise.

**Question 4.** In context of the countries that you are familiar with or work in, please describe how non-financial resources have been utilized to progressively realize the human rights to water and sanitation including the process of utilization and the output.

**Question 5.** In context of the countries that you are familiar with or work in, were trade-offs with resource usage on other national agenda and implementation of other rights required, and, if so, how were these decided?

1. Committee on Economic Social and Cultural Rights, General Comment No. 3: The nature of State Parties' Obligation (Article 2, Para 1), para. 10. [↑](#footnote-ref-1)
2. Ibid. [↑](#footnote-ref-2)
3. Ibid. [↑](#footnote-ref-3)
4. Committee on Economic, Social and Cultural Rights, General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant), E/C.12/2002/11, para. 37. [↑](#footnote-ref-4)
5. Committee on Economic Social and Cultural Rights, General Comment No. 3: The nature of State Parties' Obligation (Article 2, Para 1), para. 10. [↑](#footnote-ref-5)