



Mission permanente du Togo auprès de l'Office des Nations Unies et des autres Organisations internationales à Genève



Mission permanente du Burkina Faso auprès de l'Office des Nations Unies et des autres Organisations internationales à Genève



43rd Session of the Human Rights Council

Topic: Water, Human Rights and International Humanitarian Law

10 March 2020, 14:30-16:00

Palais des Nations, Room VII

(Simultaneous interpretation in English and French)

CONCEPT NOTE AND PROGRAMME

I. Background and relevance of the topic

The human right to safe drinking water plays an increasingly important role in the international legal order. In 2010, two resolutions on the right to safe drinking water and sanitation were adopted at the United Nations. The United Nations General Assembly (UNGA) recognizes that this right is "essential for the full enjoyment of life and for the exercise of all human rights".¹ The Human Rights Council, on its part, affirms that "the human rights to safe drinking water and sanitation are derived from the right to an adequate standard of living and are inextricably related to the right to the highest attainable standard of physical and mental health, as well as to the right to life and human dignity".² The formulation of this right is in line with the General Comment of the Committee on Economic, Social and Cultural Rights on the right to water.³

Five years after the first recognition of the human right to water and sanitation, the UNGA recognized that: "the human right to safe drinking water entitles everyone, without discrimination, to have access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use", and that the human right to sanitation "entitles everyone, without discrimination, to have physical

¹ A/RES/64/292, 28 July 2010.

² A/HRC/15/L.14, 24 September 2010.

³ General Comment No. 15 (2002). The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2002/11, 20 January 2003.

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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”, and reaffirmed that both rights are components of the right to an adequate standard of living.⁴

Despite the universal recognition of the human rights to safe drinking water and sanitation, many challenges remain. Nearly 10 years after the adoption of the resolutions by UNGA and the Human Rights Council, 785 million people still lack access to basic drinking water services and 144 million people continue to draw water directly from surface water sources, a total of 11 per cent of the world's population, while 2 billion people still lack basic sanitation services.⁵

In 2017, only 3 out of 10 people in Sub-Saharan Africa were using drinking water provided by safely managed drinking water utilities, while 4 out of 10 people did not even have access to basic water services. Despite the measures taken towards achieving Sustainable Development Goal 6 (SDG 6) and the significant progress made over the past decade, weak governance and the lack of resources and funding continue to undermine service delivery for many people, especially the poorest and most vulnerable populations.⁶ Since 2009, the African Union mandated the African Ministers' Council on Water (AMCOW) to regularly report on the implementation of the commitments adopted on safe access to water and sanitation in various declarations and statements, including on the human rights to water and sanitation.⁷

For the first time, in 2019, in a resolution adopted by consensus, the UNGA made an explicit reference to armed conflict situations stating that people living in countries affected by armed conflicts are more exposed to the lack of access to safe drinking water and basic sanitation services than those living in other countries.⁸

UNGA further stated that the Assembly was:

“Deeply alarmed by indiscriminate attacks and attacks deliberately targeting civilian objects in armed conflict, which may injure personnel and cut off the power that keeps water, sanitation and hygiene systems running ;”⁹

⁴ A/RES/70/169, 17 December 2015.

⁵ Resolution A/C.3/74/L.33/Rev.1, 12 November 2019.

⁶ See AMCOW Website: www.waterintegritynetwork.net/2019/10/01/amcow-pledges-to-promote-integrity-in-the-water-sector-through-partnership-with-the-water-integrity-network/.

⁷ See: African Union Assembly, Sharm-el-Sheikh Commitments for Accelerating the Achievement of Water and Sanitation Goals in Africa, 30 June-1st July 2008.

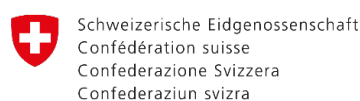
⁸ Resolution A/C.3/74/L.33/Rev.1, 12 November 2019.

⁹ Ibid.

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The Human Rights Council also observed that “water, sanitation and hygiene-related diseases have a disproportionate impact on children and that, in humanitarian crises, including in times of conflict or natural disasters, children suffer the most from interruptions in water and sanitation services, ...”¹⁰

The United Nations Special Rapporteur on the human rights to drinking water and sanitation devoted his 2018 report on the human rights to water and sanitation of 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 destination.¹¹ The Special Rapporteur recommends that States: “[g]uarantee 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”.¹² He also recommends to “[r]espect the provisions of international humanitarian law in situations of armed conflict, including by granting safe, rapid and unimpeded humanitarian access to those in need” and to “[a]pply the framework of the human rights to water and sanitation at all times — before, during and after emergency situations, armed or non-armed conflicts or disasters”.¹³

Beyond the United Nations, the International Organization of La Francophonie (OIF), through its Resolution “Water, Peace and Security” adopted at the Madagascar Summit in 2016, recalls the provisions of international humanitarian law relating to the protection of the environment and the civilian population as well as the human right to drinking water. This Resolution also condemns the use of water as a weapon of war in internal and international conflicts.¹⁴

¹⁰ A/HRC/RES739/8, 27 September 2018.

¹¹ A/HRC/39/55, 3 August 2018.

¹² Ibid., par.68 (a).

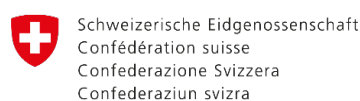
¹³ Ibid, paras. 68 (d) et 69 (a).

¹⁴ 16th Conference of Heads of States and governments of countries having French as a common language, Resolution « Water, Peace and Security », Antananarivo (Madagascar), 26 and 27 November 2016.

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II. Objectives of the event

Resolutions adopted by the United Nations General Assembly and the Human Rights Council in recent years show a growing interest in protecting access to water during armed conflicts.

It is stated in General Comment No. 15 (2002) on the Right to water that the “obligation to respect” includes, inter alia, “refraining from ... limiting access to, or destroying, water services and infrastructure as a punitive measure, for example, during armed conflicts in violation of international humanitarian law.”¹⁵ General Comment No. 15 further recognized that:

“during armed conflicts, emergency situations and natural disasters, the right to water embraces those obligations by which States parties are bound under international humanitarian law. This includes protection of objects indispensable for survival of the civilian population, *such as* drinking water installations and supplies and irrigation works, protection of the natural environment against widespread, long-term and severe damage and ensuring that civilians, internees and prisoners have access to adequate water.”¹⁶

The [Geneva Water Hub](#) with its [Platform for International Water Law](#) and its partners developed the "Geneva List of Principles for the Protection of Water Infrastructure" which is the first document systematizing the law applicable to the protection of water infrastructure during and after armed conflict. The List of Principles includes both obligations derived from international humanitarian law and international human rights law. This document is the result of collaboration between academic institutions, international and non-governmental organizations and was presented at the 33rd International Conference of the Red Cross and Red Crescent in December 2019.

This side event aims to discuss the protection of access to safe drinking water and sanitation under international human rights law and international humanitarian law and to present the Geneva List of Principles on the Protection of Water Infrastructure. The following issues will be addressed: 1) How is access to safe drinking water and sanitation protected under international human rights law? 2) What has been the evolution, in practical terms, of the engagements of both the United Nations General Assembly and the Human Rights Council in this field? 3) How is access to safe drinking water and sanitation protected under international humanitarian law? 4) What is the content of the Geneva List of Principles on the Protection of Water Infrastructure?

¹⁵ General Comment No. 15 (2002). The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2002/11, 20 January 2003, para. 21.

¹⁶ Ibid., para. 22.

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This side event will highlight the importance of respecting the rights to water and sanitation during armed conflicts. It will allow an exchange of views between the African Group in the Human Rights Council, other State delegations and UN actors.

III. Expected results

- To improve the knowledge of States' delegations on the subject of water, human rights, and international humanitarian law.
- To engage in a dialogue between the delegations, UN actors and civil society.
- Draw up proposals and common positions on the thematic area of water, human rights and international humanitarian law.

PROGRAMME

14:30-16:00

INTRODUCTORY REMARKS

- **H.E. Mr Yackoley Kokou JOHNSON**, Ambassador, Permanent Representative of Togo to the United Nations Office and other International Organisations in Geneva, Vice-President and Rapporteur of the Human Rights Council.

MODERATOR

- **H.E. Mr Dieudonné W. Désiré SOUGOURI**, Ambassador, Permanent Representative of Burkina Faso to the United Nations Office and other International Organisations in Geneva, Coordinator of human rights issues within the African Group of States.

PANEL

- **Mr Léo HELLER** UN Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation (by video message).
- **Mr Rio HADA**, Team Leader, Economic, Social and Cultural Rights, Development and Economic and Social Issues Branch, Office of the United Nations High Commissioner of Human Rights (OHCHR).

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- **Ms Mara TIGNINO**, Lead Legal Specialist, Platform for International Water Law, Geneva Water Hub and Reader, Faculty of Law and Institute of Environmental Sciences, University of Geneva.
- **Mr Nisar SYED**, Chief, Global Clusters Coordination Unit, UNICEF.
- Exchange of views and reflections on the 10th anniversary of the recognition of the human rights to water and sanitation by the Human Rights Council and the Geneva List of Principles on the Protection of Water Infrastructure.

CONCLUDING REMARKS

- **H.E. Mr Georges NAKSEU-NGUEFANG**, Ambassador, Permanent Representative of the International Organization of the Francophonie at the United Nations Office in Geneva and Vienna and other International Organizations in Switzerland and Austria.
- **Mr François MÜNGER**, Director General, Geneva Water Hub.

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