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

Questionnaire for Non-State Actors

The principle of accountability in the context of the human rights to safe drinking water and sanitation

Pursuant to the UN Human Rights Council resolutions 27/7 of 2014 and 33/10 of 2016, the Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Léo Heller, will be elaborating his thematic report to the seventy-third session of the General Assembly in 2018 on the principle of accountability in the context of the human rights to safe drinking water and sanitation.

Accountability implies that actors involved in provision and regulation of water and sanitation services must have clearly defined duties and responsibilities and performance standards (“responsibility”); actors must be answerable to affected people and groups for their actions and decisions, which includes access to information in a transparent manner (“answerability”); and mechanisms should be in place that monitors actors’ compliance with established standards, imposes sanctions and ensures that corrective and remedial action are taken (“enforceability”).¹

The Special Rapporteur departs his initial analysis on the topic from a broad interpretation of the principle of accountability and focuses on the relationship of State and non-State actors² involved in policy-making, provision and regulation of water and sanitation services to the people affected by their actions and decisions.

The Special Rapporteur is seeking information on mechanisms that enable individuals and groups to hold those actors accountable for ensuring the rights to the safe drinking water and sanitation. He, therefore, requests information on good examples, as well as main challenges encountered in establishing, using and implementing such mechanisms. Accountability mechanisms may include, among others, processes of participation, monitoring, oversight, information, as well as judicial, quasi-judicial, administrative, political mechanisms.

As part of his research, the Special Rapporteur welcomes responses to the following questions:

¹ Office of the High Commissioner for Human Rights, “Who will be accountable? Human Rights and the Post-2015 Development Agenda” (2013), p. 10 available from <http://www.ohchr.org/Documents/Publications/WhoWillBeAccountable.pdf>

² Non-State actors may include, but are not limited to: businesses, private actors, development organisations, non-governmental organisations, among others.

1. Please describe the role and responsibilities of your organization in the water and sanitation sector.

The [Stockholm International Water Institute \(SIWI\)](#) is a Swedish, independent, not-for-profit foundation, which seeks to strengthen the governance of fresh water globally, regionally, nationally and locally. SIWI aims at linking knowledge, policy and practice to strengthen water services delivery and water resources governance. One of the programmes hosted by SIWI is the [UNDP-SIWI Water Governance Facility \(WGF\)](#). WGF supports low and middle-income countries in their water reform by providing policy and technical advice and support, developing water governance knowledge and helping to develop institutional capacity. WGF contributes to changing people's knowledge, understanding and attitudes towards the realization of the human rights. This is of increasing importance to respond to growing awareness within the human rights community that water management is fundamental to the realization of a range of human rights. A manual on a [Human Rights-Based Approach to Integrated Water Resources Management](#) has been developed along with training material and an online course.

2. Depending on the role and responsibilities of your organization, please provide information on how the **principle of accountability is defined and applied** in the policies and activities of your organization, particularly to ensure the realization of the human rights to safe drinking water and sanitation.

Through the [GoAL WaSH programme](#) WGF supports governance reform, sector leadership and capacity development in partner countries. The goal is to enhance the performance of the drinking water and sanitation sectors for effective, equitable and sustainable service delivery. GoAL WaSH supports work in three areas: 1) Identifies gaps, needs, constraints and opportunities in national water and sanitation plans, strategies and capacities; 2) supports development and reform of policies, laws, coordination mechanisms and regulatory functions; 3) supports implementation with accountability and transparency. Specific activities related to accountability are provided below.

[Accountability for Sustainability](#) is a collaborative initiative between the WGF and UNICEF Headquarters in coordination with Regional and Country Offices. The programme aims to advance the way UNICEF approaches and deals with enabling environment and governance issues as a way to improve the sustainability of WASH services. The partnership focuses on how strengthening accountability can help in removing bottlenecks to sustainability. It provides UNICEF WASH staff with the accountability tools and guidance they need to achieve improved governance and thereby help shape programmes to deliver increased sustainability. The following tools and guidance documents have been published within the Accountability for Sustainability programme:

[Accountability in WASH: Explaining the Concept](#)

[Accountability in WASH: A reference Guide for Programming](#)

[Enabling Environment and Water Governance: A Conceptual Framework](#)

[WASH Accountability Mapping Tools: Facilitator Guide](#)

Through the [Accountability for Sustainability programme](#) WGF has supported WASH bottleneck analyses (WASH BAT) in several countries, the most recent one being [Ethiopia](#). This tool, designed by UNICEF and partners, has been designed to meet the needs of water, sanitation and hygiene sectors for diagnosing and solving key challenges that they are facing. It aims to elevate the efficiency of WASH sector resources to achieve more sustainable and equitable outcomes, by facilitating dialogues between sector financiers and by offering practical proposals to remove barriers and increase sector development.

Alternatively, please provide information on how the **principle of accountability is defined and applied** in the legal, policy and institutional frameworks of the State(s) with whom your organization is working, particularly to ensure the realization of the human rights to safe drinking water and sanitation.

3. Please describe any **challenges or gaps identified** when applying and implementing the principle of accountability in relation to the human rights to safe drinking water and sanitation. How were these challenges and gaps addressed?

The challenges identified in some countries include:

- i) unclear roles and responsibilities between different stakeholders; policies might exist, but these might not be clear enough, or contradict each other, leading to duplicity of roles, and struggles over power within government institutions
- ii) Lack of accessible information. Information is sometimes said to be available, but it is not easily accessible for the population: cumbersome administrative processes to obtain it, information not presented in an easily understandable way, etc, make access to information difficult. In addition, there are not always adequate spaces for dialogue and interaction across
- iii) Unsufficient participation of end users in all stages of service delivery; policies seem to be in place in most of the countries, yet reported participation (see UN-GLAAS report 2017) are moderate to low for both water and sanitation. The actual influence of the participatory processes is also questioned, as in many occasions these are more one way information processes.
- iv) Lack of (or weak) regulatory bodies. When existing, regulatory bodies lack in many cases sufficient political, and managerial independence. In other cases, financing of regulation activities remains a challenge, and the lack of resources prevent the regulator from fulfilling their role properly. Through [the GoAL WaSH programme](#) several interventions have been focused on addressing these gaps, for example in [Liberia](#) support is being provided to set up a regulatory agency for the sector. In [Tajikistan](#) GoAL WaSH has strengthened information sharing between duty bearers and rights holders (see more information below).

Responsibility

4. Please provide information on the **level of clarity and transparency of the roles and responsibilities, and performance standards of State and non-State actors** in accordance with the normative content of the human rights to water and sanitation. In other words, how are defined the roles of the actors responsible for the accessibility, availability, affordability, acceptability and quality of water and sanitation services in an equal and non-discriminatory manner.

In [Laos](#) the GoAL WaSH programme has supported the process of setting up Key Performance Indicators (KPIs) for six water utilities throughout the country. The KPIs cover some of the normative dimensions of the human right to water, such as water quality (water quality standard compliance), or accessibility (hours of service). The setting of monitoring mechanisms is an iterative process, and it is hoped that some additional indicators will be added as the system becomes more robust.

Within the same programme WGF also carried out a water integrity training for four water utilities. The training centred on the [Integrity Management Toolbox methodology](#) developed by the Water Integrity Network, GIZ and CEWAS. The methodology supports organizations to make integrity a component part of their strategic plans, business models, and daily practices to reduce integrity risks and improve performance. During the training each water utility had to develop a business model canvas and identify the key integrity risks, and an action plan to solve them. A year later three out of four water utilities had successfully implemented their plans, including for example improved customer service, improved meter reading procedures, or field inspections. All these helped to improve transparency and accountability of service provision.

5. Please provide information on the **availability and accessibility of information about State and non-State actors** responsible for the realization of the human rights to safe drinking water and sanitation.

(see general comments about this under question 3)

Answerability

6. Please provide examples of good practices or gaps on **how the State informs individuals or civil society organisations** of its progress, retrogression and failures in the realization of the human rights to safe drinking water and sanitation.

In [Kyrgyzstan](#) a [national WASH review](#) was carried out for the first time in 2017, with support of the GoAL WaSH programme. The review covered policy, governance, legislation aspects of the drinking water, and sanitation sector and included recommendations for the future. It was discussed and approved by the National Drinking Water Supply and Sanitation Council in August 2017.

In [Paraguay](#) an [Intersectoral Committee on Water Supply and Sanitation for the Chaco region \(MIAS-Chaco\)](#) is a coordinating mechanism for governmental institutions at national, province and municipal levels, private sector, international development agencies and civil society. The Chaco region suffers from reoccurring droughts and flooding and has the highest level of WASH unserved people in the country. By sharing information and knowledge, MIAS-Chaco synergise actions and investments, making interventions in the Chaco region more efficient, appropriate and sustainable. The GoAL WaSH programme has provided strategic support to MIAS-Chaco by financing micro-projects that rehabilitate water systems and build community capacities, as well as technical support to the committee for joint planning, communication and awareness raising. GoAL WaSH has also equipped MIAS-Chaco with technical equipment to facilitate the coordination of the committee. Through MIAS-Chaco, GoAL WaSH, supports knowledge exchange between municipal water and sanitation units and national and province governments, strengthening their capacities to provide sustainable services to the communities in the Chaco region.

7. Please provide examples of good practices or gaps on how individuals or civil society organisations **obtain reasoned justification for actions and decision** of State and non-State actors.

8. Please outline the main obstacles encountered when accessing existing accountability mechanisms*.

*Examples may include judicial, quasi-judicial, administrative, political and social mechanisms.

Comments on regulation have been made under question 3. Similarly, Anticorruption Commissions have not always been effective in addressing concerns, due to either lack of resources, and/or political will to allow the Commissions to play their role.

Enforceability

9. Please share your experiences in holding States accountable for violation of the human rights to safe drinking water and sanitation. How do these mechanisms work in practice?

N.a.

10. Please provide examples of accountability mechanisms* suited for holding non-State actors accountable for breaches of its responsibility to respect human rights to safe drinking water and sanitation.

*Examples may include judicial, quasi-judicial, administrative, political and social mechanisms.

In [Tajikistan](#) the GoAL WaSH programme has supported a process of rendering legal consultative services to water consumers (including pre-trial court protection with special focus on gender, vulnerable and marginalized groups). A local network of volunteers has been set up. Through this network more than 150 consultancy services have been provided in the target areas, as well as information campaigns. Moreover, an online resource site <http://www.obinushoki.tj/> has been set up to extend legal services for the drinking water consumers throughout Tajikistan. Trainings on water integrity, consumer rights protection and dispute resolution mechanisms, for duty-bearers and rights holders, have also been carried out.

In [Tajikistan](#) the GoAL WaSH programme has supported the establishment of [Public Advisory Councils](#) in water supply companies, implemented together with the Consumers Union of Tajikistan. The aim of the Public Advisory Councils is to protect the rights and interests of consumers and encourage their participation in decision-making processes. The Councils provide opportunities for water supply companies to develop effective feedback mechanisms with their clients, facilitating timely consideration of complaints and proposals, as well as more transparency and operational efficiency. They also improve water use practices among consumers. During the PAC meetings complaints and requests from consumers are openly presented to the management of the water supply companies, who in their turn provide explanations and commitment to further resolve issues. Minutes and follow-up actions are later published on a website administered by the Consumers Union of Tajikistan (<http://www.obinushoki.tj/>). Water service users are also communicated the costs of the services and explained the level of the tariff, which has resulted in an increase of mutual-trust between the providers and the customers, and ultimately increased tariff collection.

In [El Salvador](#) a [social audit manual](#) was launched in 2016. It was developed as part of the [GoAL WaSH project](#) and aims at helping communities that want to exert control over their water institutions. The social audit manual aims to provide clear guidelines and recommendations to include social auditing of water management at local level. It seeks to increase the knowledge and awareness of water integrity based on concepts such as good governance, citizen participation, transparency, accountability. It also supports integrated water resources management by promoting coordination among actors at different levels and presenting advice on social audit and participation mechanisms for citizen committees that

are involved in water management at the local level. The manual was developed in consultation with concerned authorities and three Municipalities' Associations, representing 19 of the 27 municipalities in the Torola River Basin.

In El Salvador WGF has also supported the implementation of [Integrity Pacts](#) that promotes transparency around pipe replacement contracts in El Salvador, together with the Spanish Development Agency (AECID) and the National Water and Sewerage Administration of El Salvador (ANDA). The agreement supports ANDA to improve the management of the organisation through the lens of integrity. An Integrity Pact – a tool developed by Transparency International – is an agreement between the government agency offering a contract and the companies bidding for it that they will abstain from bribery, collusion and other corrupt practices for the extent of the contract. To ensure accountability, Integrity Pacts also include a monitoring system typically led by civil society groups. This forms part of ANDA's move towards improving the management of the organisation through the lens of integrity, which includes a series of workshops and activities in order to improve the management of the institution through integrity aspects.

- 11. Please describe how your organisation participated in mechanisms to hold State and non-State actors accountable** for the violation or abuse of the rights to water and sanitation. Has the contribution been taken into account in a meaningful manner and has it been included in State's follow-up action and reporting?

- 12. Please provide information on specific cases where compliance with outcomes of accountability mechanisms was or was not ensured or implemented.**

Submission of responses

Due to limited capacity for translation, it is kindly requested that responses be submitted, if possible, in English, Spanish or French and, **no later than 15 March 2018**. All responses will be posted on the official webpage of the Special Rapporteur on the human rights to safe drinking water and sanitation, unless it is indicated that the submission and/or the supporting documentation should be kept confidential.

(www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/SRWaterIndex.aspx)

Please keep responses to a maximum of 5 pages (or 3,000 words), and provide links to information or documents when available. Preferably sent via email to: rwatsan@ohchr.org, copying registry@ohchr.org. Alternatively, please send to:

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CH – 1211, Geneva, Switzerland.

For any question, please contact Ms Madoka Saji, Human Rights Officer (msaji@ohchr.org; phone; +41 22 917 96 36) or Ms. Ahreum Lee, Associate Human Rights Officer (ahreumlee@ohchr.org; +41 22 917 93 91) at the Office of the High Commissioner for Human Rights in Geneva