

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

Questionnaire to non-states actors

**Report to the 48th session of the Human Rights Council
(2021) on planning and vision**

**Report to the 76th session of the UN General Assembly (2021)
on water commodification**

Introduction

The Special Rapporteur (SR) is producing two reports – one on planning to be presented at the 48th session of the Human Rights Council and another on commodification of water to be presented at the 76th session of the General Assembly.

This document is the response from AquaFed to the Questionnaire to Non-State Actors from the SR's [website](#).

AquaFed believes that **the Human Rights to Water and Sanitation, the Rule of Law, and the Sustainable Development Framework as agreed by the UN are essential and mutually reinforce one another.**

Key Messages

- **AquaFed welcomes the SR's ambitious agenda** as set out in his previous communication at the start of his mandate.
- **Private water operators are contracted by local authorities to contribute to all criteria of the Human Rights to Water and Sanitation.**
- **AquaFed and its members were early and very vocal promoters of the Human Rights to Safe Drinking Water and Sanitation and continue to do so at national and supranational level.** We supported the adoption of the Sustainable Development Goals targets 6.1 and 6.2 to reach full coverage by 2030. AquaFed was also at the forefront of the call to have the Right to Sanitation recognised.
- **Public authorities have been able to rely on private operators' specific skills during the COVID pandemic to ensure continuation of service,** for example experience in human resources and change management, cutting-edge technologies and technical expertise. Private operators reacted quickly and efficiently to the pandemic to add extra support to public authorities.
- **Private operators are at the forefront of efforts to mitigate and adapt to climate change and have technologies and experience that are essential to national and international efforts.**
- **We do not accept any connection between the role of private operators and the trading of derivatives based on the price of water abstraction licences on financial**

markets. There is no actual evidence to support this claim and the SR must be very clear in his report about this.

- **The pandemic and climate change both highlight the long-standing weaknesses in the water sector – a lack of political will, weak governance, a lack of accountability: partnerships involving all actors are essential to get SDG6 back on track,** especially in the light of recent UN Water data showing that even greater collective effort is needed. We hope the SR can use his reports and his mandate to be a unifier of collective action.

About AquaFed

AquaFed, the International Federation of Private Water Operators, represents private companies that deliver water supply or sanitation services under the direction of public authorities. Our members are providers of all sizes, operating in around 40 countries, as both locally and internationally owned businesses.

AquaFed's roles are to:

- to demonstrate how PPPs are a successful model/solution of water and sanitation service delivery
- provide private water operator expertise into national and international technical and policy discussions on water and sanitation
- to provide facts driven by KPIs and benchmarks, into subjective and politicised debates.

We have a solid, proven and respected record of supporting the United Nations General Assembly and Member States and the adoption of the Human Rights to Safe Drinking Water and Sanitation and its deployment in States. We also contributed to the development and adoption of the Sustainable Development Goals targets 6.1, 6.2 and 6.3 on wastewater management, to reach full coverage by 2030, in coherence with the other SDGs 6 targets, and SDG targets 1.4 and 11.1 and 17.

AquaFed carries out its role in many ways including through multi-stakeholder partnerships including the Sanitation and Water for All Partnership, UN Water, World Water Council and OECD.

AquaFed's members' role is to make the Human Rights to Safe Drinking Water and Sanitation a reality for everyone by contributing to accessibility, quality, acceptability, affordability, availability. Public authorities can either operate these services themselves, or chose to have a private company operate services. The only correct choice is the one that is in the best interests of users.

I. COVID19 and human rights to water and sanitation

1. In the context of COVID19 pandemic and recovery and relief measures, and within the countries that your organization works in; what measures and steps have been taken by the government (by both central and local governments), as well as public and private service providers to ensure that all populations have access to adequate and sufficient water, sanitation, and hygiene services and facilities?

The SR will receive examples from State and Non-State actors with local context. The key point regarding private operators is that they complied with whatever measures were taken by central and local governments, for example tariff freezes or temporary bans on disconnections. Private

operators have continued to fulfil all their contractual obligations including serving poor and vulnerable users.

Not all States have specific laws or even guidance on how to support hardest to reach or most vulnerable users in a crisis. In the absence of State law, private operators continued to protect people's health by continuing their supply of water. For example, in Barcelona, the private operator AGBAR had already put in place social tariffs so that the poorest could afford to pay, before the municipality took additional action. In England and Wales, private water companies also had well-established social tariffs in place, under the OFWAT approval long before the pandemic started.

Public authorities were able to respond quickly and effectively thanks to the involvement of private operators. Companies with an international footprint were able to anticipate quicker (they were able to analyse what was happening in Asia and were prepared and anticipated action to be taken in other regions). Private operators proved very capable of strong crisis management, implementation of services and implementing continuity plans adopted to the different geographical areas.

It is a mark of the efficiency and capabilities of private water companies that they were able to react quickly to provide frontline staff with protective equipment so that services could continue. The digital capabilities, both in the administration of the service, but also through digitisation through smart networks and online services for customers for example, enabled private operators to ensure their users had access to adequate and sufficient water, sanitation, and hygiene services and facilities.

Private operators have also been important players in the development of new solutions to identify traces of virus in domestic and industrial wastewater where the epidemic was developing rapidly (eg in France, Spain and India).

1.1. In the event that water and sanitation services are managed by private operators and they are unable to meet the requirements of COVID 19, what specific measures have been taken to regulate and ensure that the population has adequate access to water, sanitation and hygiene services and facilities?

All States held the continuity of service as paramount during the lockdown periods and held operators, both public and private, accountable to this continuity. To our knowledge all private water operators were able to meet the requirements under the pandemic. Results show that the continuity of service was indeed ensured by private operators during the entire crisis: private operators have no option other than defending each and every day their license to operate.

Private operators deployed specific help to non-connected communities outside the terms of the Public-Private Contracts to secure the delivery of good quality water to unserved people (e.g. in Ecuador and in France).

1.2. In the event water and sanitation services provided by municipal (regional) governments or under community management, and difficulties arise in complying with COVID 19 requirements, what specific measures have been taken at the level of the central government to ensure that the population has adequate access to water, sanitation and hygiene services and facilities?

1. Within the countries that your organization works in, what temporary legislative or policy measures have been implemented in the context of COVID19 (including state of emergency, emergency laws, moratorium) to prohibit water disconnections for those who are not capable of paying the water and sanitation service tariffs?

2.1. What steps are being taken both by public and private service providers to ensure the affordability of water service for those who cannot pay the bills for reasons beyond their control, including unemployment and poverty, which have been exacerbated by the COVID19 pandemic?

2.2. In the context of the pandemic, was the safety and freedom of defenders of human rights to water and sanitation respected during protests and advocacy on water disconnections, access and quality?

[Our members have not experienced any protests of human rights to water and sanitation defenders during the pandemic.](#)

3. What are the vulnerabilities that have been exacerbated by COVID19 that negatively impact people's access to water, sanitation and hygiene (WASH)? What measures and steps have been taken to identify and target individuals and groups that have been exposed to those vulnerabilities? Can you provide some case studies, statistics or specific examples? In particular:

3.1. What are the specific challenges faced by the population living in rural areas and those areas that rely on community-based water and sanitation services? How have these challenges been addressed?

3.2. What are the specific challenges faced by population living in areas that are suffering in hydric stress, and/or semi-arid regions?

3.3. What are the specific challenges faced by population living in refugee camps, in host-communities that absorb refugees, displaced persons and other forcibly displaced persons, slums and informal settlements in urban and peri-urban areas? What about seasonal workers?

3.4. In addition to the above groups which have been identified as gaps in the Special Rapporteur's research thus far, which other groups and population should be prioritized due to the increased vulnerability that COVID19 has created?

Public policies

4. In the countries that your organization works, what steps have been taken to address vulnerabilities that COVID19 has created for people and groups in public policies - the so-called "Building Back/Forward Better" policies - and other policies to build resilience and sustainability?

4.1. What are the lessons learned from responding to COVID19 to build social protection, resilience to prevent future possible public health crises?

[We don't believe the pandemic has highlighted any new problems. The response to the crisis reminds us of:](#)

- [The irreplaceable role of public authorities: central and local, to make the choices in citizens' best interests, taking into account economic and environmental needs.](#)

- The need, more than ever, to separate roles but share actions/solutions: the experts, the decision makers, the operators, the legal systems.
- The need to take bold decisions with best anticipations, but without certainty.
- The utmost need for transparency and accountability mechanisms.
- The financial constraints: Authorities cannot do everything in one go. But preserving health is the direction to follow on the compass, taking due account of feedback from authorities on the crisis management by their operators.

4.2 What measures and steps have been taken to strengthen access to water, sanitation and hygiene as part of strengthening the public health policy? What impact (if any) did recovery measures for COVID-19 have on other areas related to the implementation of the human rights to water and sanitation such as projects related to menstrual hygiene?

4.3. In your opinion, what are the areas that have remained unaddressed or that require more attention both as short-term relief measures and in “Building Back/Forward Better”?

The water and wastewater sector faces multiple challenges: economic downturn, pollution, fast changing climate, urban sprawl and migrating populations. The pandemic has highlighted the need to address all these issues and should have been a catalyst for greater political prioritisation and investment. However, the latest data from the UN show that progress is slipping further behind and on SDG 6.1 for example, efforts now need to be quadrupled.

We know that the benefits of investing in water and sanitation are considerable: whether return on investment is 1 to 2 or 1 to 5, WASH underpins the entire development of public health, the economy and society.

So public spending on water and sanitation must rise: Pre-Covid 19, water and sanitation spending represented 0.7% of the GDP. AquaFed, alongside many other parties including the World Bank, believe spending must rise to at least 1.1% of GDP to ensure access to all, cater for population growth, and meet compliance requirements. This has to happen now, not in 5, not in 10 years.

The right balance of Tariffs, Taxes and Transfers is an issue to be resolved by authorities, national and local. It can take decades to elaborate a sustainable financial mix for the water and sanitation sector - this good work risks being immediately ruined by hasty short-term political decisions. AquaFed firmly supports the OECD work on this and we have argued in previous submissions to the HRC/OHCHR on the soundness of these concepts.

The SR should also reflect upon the challenges faced directly by public utility managers during the pandemic. They again highlight the need for stronger partnership between the State, public authorities, utilities, civil society and the private sector.

Specific examples of the kind of challenges public utility managers face from the impact of the pandemic were discussed at two African Water Association (AFWA) webinars in the summer of 2020. These were their key points and are significant because many remain unresolved and all have a direct impact on the provision of the human rights:

Revenues

- Widespread drops in tariff collection rates leading to severely reduced ability to meet current and future opex and capex demands.
- Some governments seeking loans from development banks to cover for revenue losses, but this will increase State debt and put further pressure on future public spending.

- Utilities need to focus on tailored/specific payment plans for individual customers and complete overhauls of tariff structures.

Health and safety of staff

- Water and sanitation operators are recognised as emergency response/essential services in most countries but this must apply everywhere.
- Ongoing need for protective equipment, new shift work patterns, more home-working.
- Adapting to post-lockdown conditions eg distancing within labs and offices, further immediate digitalisation.

Digitalisation / Agile Working

- Digitalisation is an integral part of private operations. The crisis has forced public utilities to realise the need for more digitalisation and automation in basic operations - but they do not have the funding and expertise available.

Customer Relations

- The value of understanding users' circumstances, customer relations and communication is even more apparent - but some public utilities still find this very challenging.

Investment

- The call for urgent investment in water and sanitation to avoid future operational problems derived from ageing infrastructures in similar crises.

4.4 In your opinion, have national/regional/local governments responded adequately through COVID-19 recovery policies to relieve the stress caused by the pandemic?

II. Climate change and human rights to water and sanitation

Impact on specific groups

1. In your experience, how does the impact of climate change hinder the fulfillment of the human rights to water and sanitation, especially in groups in vulnerable situations? Can you identify specific groups that have increased vulnerability due to the impacts of climate change (drought, floods, desertification) on water supply and sanitation? (i.e., women, residents of informal settlements, climate refugees, indigenous peoples, etc). Can you provide some case studies, statistics or specific examples?

AquaFed, through our partnership with Tanzanian CSO MACS, recently heard from rural communities in Tanzania directly about how the impacts of climate change are affecting their rights. The erratic rain patterns affected all aspects of their lives and it was a stark reminder of the critical nature of water, and that water is life.

Many stories like this emerged from the World Water Day #water2me Listening Exercise led by AquaFed and PSI. Rural communities, who we know are already at greater risk of having their human right to water and sanitation not fulfilled, are at even greater risk from climate change.

But we use these undeniable facts to also remind the SR that this is not in any way related to the presence of private operators. In appropriate circumstances, we provide the solutions. Vulnerable groups remain vulnerable or put at even more risk because of the actions, or inaction of States and public authorities. We have highlighted in previous answers some of the fundamental problems facing the sector.

2. What steps and measures are being considered to carry out projects and policy that take into account the intersectionality among groups in vulnerable situations? Can you provide some case studies, statistics or specific examples?

3. What initiatives, projects at regional/local level are in place which takes into account the voice and knowledge of groups in vulnerable situations in designing solutions to address the impacts of climate change (droughts, floods, desertification) on the human rights to water and sanitation? What participation mechanisms are being activated? Can you provide some case studies, statistics or specific examples?

Impact of droughts on availability and quality

4. During drought cycles, when climate change effects tend to intensify in frequency and duration, water reserves should be monitored and foreseen and both domestic and drinking uses must be prioritized in order to ensure the human rights to water and sanitation, with special attention to those groups in vulnerable situations. The negative impact on water quality, due to the concentration of contaminants when dilution flows are reduced, must also be anticipated. In this context, in order for climate adaptation strategies to ensure that the population has access to safe drinking water and sanitation:

4.1. From your experience, do you consider that - at national/regional and local level - there is a drought prevention strategy with a hydrographic planning that guarantees the supply of quality water, especially to groups in vulnerable situations? What weaknesses do you consider exist in the drought prevention strategies? Can you provide some case studies, statistics or specific examples?

4.2. From your experience, do you consider that the measures foreseen in the drought emergency plans are sufficient and adequate to guarantee the priority of water supply in households and for personal and domestic usages, especially in the case of groups in vulnerable situations? If not, can you describe the current challenges for these measures to be effective?

4.3. Have you identified areas, neighbourhoods or populations in vulnerable situations that are exposed to water shortages during drought periods? If so, in your experience, do you consider that the central, regional and local governments are implementing public policies that guarantee the availability of quality water in these cases? Can you provide some specific examples?

Impact of floods on availability and quality

5. Floods caused by heavy rains and river floods, apart from causing risk to the lives of those affected, flooding of homes, destruction of crops and various economic damages; have significant impacts on water and sanitation services. Often, domestic water supply is contaminated or supply facilities are affected, which implies drinking water supply cuts. Sanitation stations tend to collapse when they receive storm drains along with domestic and industrial returns, which produces direct polluting discharges. Especially worrying is the situation of those sanitation stations located next to rivers, which tend to be flooded indefinitely. Sometimes the rise in the level of the rivers and the massive pluvial drainage generate black urban floods through the sanitation sewers, even reaching inside the houses. In this context, in order for climate adaptation strategies to ensure that the population has access to safe drinking water and sanitation:

5.1. In your experience, what are points of improvement that are necessary to be included in territorial and urban reorganization plans in the face of flood risks in order to minimize the vulnerability of populations and to guarantee the human rights to water and sanitation?

5.2. What measures should be taken to prevent blockage of sewerage stations, flooding from river overflows or black flooding from the sewerage network?

5.3 In your experience, do you consider that the emergency plans for floods are adequate and effective in ensuring water supply, sanitation and hygiene services for populations in vulnerable situations, both in their homes and in the possible circumstances of evacuation, if necessary? If not, what improvements are necessary?

Impact of Desertification on availability and quality

6. The increase, both in temperatures and rainfall variability, caused by climate change increase desertification in arid, semi-arid and dry sub-humid areas. Desertification increases surface runoff and therefore increases the risk of floods, which impact water supplies and sanitation. It also causes less water infiltration in the aquifers, affecting the availability of water. Finally, the risk of fires is increasing, increasing the risk of erosion and desertification of burned areas.

6.1 To the extent of your knowledge, what steps and measures are being taken to guarantee that water and sanitation are supplied continuously in the case of desertification, especially for groups in vulnerable situations?

6.2 Are there information and citizen participation policies that integrate human rights in the fight against desertification?

III. Financialisation/commodification questionnaire

Specifics of the WASH sector and financialisation:

1. Water and sanitation services are a “natural monopoly” and require large and long-term investments. This is in contrast to key characteristics of financial markets – competition and short-term management. This makes the WASH sector, in principle, slightly different to other basic services.

AquaFed recommends the SR and its team proactively engage with water and finance experts, for example at Global Water Intelligence or some of the ratings agencies and analysts that focus on water investments.

There are a wide range water and sanitation services, depending on scope and context. These services require 60-80% of private supplies, consulting and construction services. Some of these arise from long-term investment and others very short term. There is competition among the suppliers and the beneficiaries are the utility provider (public or private) and the public authority as they have greater choice.

The sector is also starting to see new innovative and entrepreneurial businesses in the sanitation sector for example, working in one or a few parts of the water and sanitation value chains. These are providing basic services to people who may well not have received them in the past. These are not backed by long-term investment, but initially at least, short-term venture capital and private equity, mixed with philanthropy and donor funding. All sources of finance can play a very positive role in the sector if supported by the correct governance.

However, the large infrastructure elements of WASH services of course require capital which currently for the water sector come from taxes, tariffs and transfers. There is relatively very little private capital in WASH and only in countries where there is strong governance and regulation.

It is important that the SR acknowledge the differences between different products on financial markets, which are simply not just about short-term management, eg basic bonds such as Treasury bonds can be 30-year terms: it is very important to give the full context and explanation as to the many types of investment required and present in WASH.

1.1 Drawing from your experience, how do large private operators deal with long-term investment needs in the water, sanitation and hygiene (WASH) sector? Do you know of significant short-term financial operations in the WASH sector to date? Do you think that short-term speculative operations can be combined with long-term strategies in the WASH sector? Please share any research, testimonies or experiences of this.

We refer specifically to utility services in the WASH sector for this question. Investments in these services are almost exclusively made by public authorities, and the infrastructure belongs to them. The public authorities decide the level of investment and how that investment is financed.

In the very few countries such as the USA, UK and Chile, where the private water operators own the assets, they are still responsible for delivering local and national targets set by the State and monitored by regulators; and the state of assets and their maintenance is closely scrutinized by regulators.

Public authorities are under political control. The risk is that since the political focus is on short-term election periods, the long-term nature and needs of any municipal water utility under public

governance is at risk. Unlike financially responsible, liable institutions, even short-term investments often fail under municipal governance because of neglected O&M which would pay out financially, but not politically before the next election.

Private operators do not take short-term speculative or financial views as they rest with the local authorities. They are businesses focused on the long term with a constant focus on development of technologies and experiences which are needed by public authorities.

For example, the English and Welsh companies have raised on average around £5bn of finance a year to invest since they were created in 1989. This is mostly private capital, but also other funds such as European Investment Bank funds (Source: Water UK). And it is worthwhile remembering that finance raising, investment levels and prices are controlled by the regulator Ofwat.

In Chile, the association of private companies, ANDESS, says their members raised US\$538 million in 2018 and aims to almost double that in the coming years, to meet the country's water and sanitation needs. In the United States, the association of private operators, NAWC, has stated in the past that its six largest members together invested \$2.7 billion annually in their systems and that more recently, the ten largest invest \$3 billion annually.

Common to all private operators is that by definition they are bound to provide the necessary finance and resources for the fulfilment of their contractual obligations, should these obligations require this (which is a different case scenario than 20 years ago). So in that sense, they have to be able to finance all the necessary capabilities to deliver the contract regardless of the term.

However, the divergence then comes according to the type, scope and structure that public authorities give to the PPP agreement. Plus, some operators have different strategies and priorities than others. Some do not get proactively involved in finance raising, as this role is contractually taken by the public authority or State. Other members can, and want to fund smaller projects themselves – in some cases even attracting low-cost commercial finance that is actually cheaper than development loans.

Ultimately, whether utilities are operated by public or private organisations, the relevant issue is that certain general faults are avoided which unfortunately are very common in the water sector especially of developing countries – as highlighted in this paper: <https://bmbf-grow.de/en/seven-sins-local-water-management-grow-thesis-paper/>.

1.2. To the extent that it is a “natural monopoly” and that there cannot properly be competition in the market, what role should citizen participation and control have in the management of these services? Can you share any examples related to good practices in citizen control and participation, consistent with the requirements of human rights management in this regard?

States have sovereign power over water and sanitation services and this includes the responsibility of arranging citizen participation and control.

AquaFed is absolutely clear that involving citizens meaningfully in important issues around the services, such as what to prioritise, investment levels and tariffs (including social tariffs) is absolutely essential, regardless of whether the operator is public or private. These are the questions that users really care about as they relate to the service and the price they will pay.

For a PPP, a public debate around these issues gives the contract further legitimacy and accountability and most importantly, a more user-focused service. The Guyaquil PPP in Ecuador was highlighted by the World Bank last year as a very good example of this.

But we must be clear – any decisions around citizen participation are taken by the public authority and it is their responsibility.

Customer-service orientation

Private water operators do have ways of being in contact with users. Private operators are more customer-centric than public operators, resulting in better customer interaction and ultimately satisfaction. For example, Spanish company Aqualia not only provides multi-channel customer service (via website, app, social media, telephone) but also closely monitors and benchmarks its customer service performance. In 2019, satisfaction with its call centre was at 96% based on nearly 750,000 calls.

Ability for redress

Citizen control also involves a strong ability for redress if the service is inadequate. This should apply equally to public and private operators. In England and Wales, an independent consumer body (CC Water) monitors the private companies' performance and supports users in disputes and redress. CC Water often mediates in disputes between the company and the customer.

Awarding authorities incorporate complaint management and remediation into tender and contract specifications, with adequate performance indicators. Contractually speaking, there are many standard clauses through which the public authorities monitor the private company performance and can impose fines or even cancel the contract when such performance is not considered acceptable.

A good example of recent development of a standard for PPP contracts has been prepared by Proinversión in Peru. Proinversión is a public entity attached to the Ministry of Economy and Finances, is responsible for the execution of the promotion to facilitate private investment in infrastructure through PPPs. They had been elaborating a standard contract which is, as of today, in its final phase of public consultation. This a 400-page contract with 72 chapters of clauses and 22 annexes and demonstrates how public administrations in most countries are protected and capable of handling their relationships with private companies.

Beyond complaint management, the possibilities of recourse and appeal may not be specific to the water sector, and reflects the development of the Rule of Law in any State: local settings, with and without private operator, must be analysed in this context, covering consumer rights and information etc.

In countries where water and sanitation are widely in the hands of private operators, the legislation picks up the instruments developed by private operators into the legal system, resulting in a level playing field for public and private sector alike. For example, in France the water-ombudsman which was initiated by private operators now benefits the majority of customers regardless of the nature public or private of the local operator.

Information publicly available on service provision is partly decided by national regulations and partly built into the contract by the public authorities in charge. Private providers have no option but to submit themselves to such requirements, for the sake of contract obligations fulfilment and to earn their license to operate.

Data and indicators

AquaFed believes isolated data are meaningless and we have always been a supporter of mandatory, public, Key Performance Indicators which enable to put local results in perspective

with a wider regional or national or historical context. This best involves a national regulator, which is tasked to maintain the performance database, and enables academia to analyse such data with statistical robustness, in an otherwise very opaque domain.

As an example, comparison data of the English and Welsh companies is fully available online - DiscoverWater.co.uk. Users, citizens and right-holders can compare their company's performance to others. The data is regulatory data so fully robust.

Awarding authorities oversee their private providers using performance indicators, internal audits, third party audits, complaints from users and meetings with stakeholders. For example, SEDIF (France), a public authority responsible for water delivery to 4bn people uses 170 KPIs (nearby public operators of comparable sizes only use 40) to closely watch the performance of its private operator, and uses a consultant to regularly check the data acquisition and results.

During the revision of the recent EU Drinking Water Directive, Aquafed strongly advocated for more EU-wide indicators of service performance which could directly highlight whether human right to water and sanitation parameters were being fulfilled. However we note that this was not supported by public utility associations and also lacked support from Member States with only public utility operators.

On the privatization of water and sanitation services.

2. The former Special Rapporteur, Leo Heller, dedicated a thematic report on the impact of privatization on the human rights to safe drinking water and sanitation (A/75/208) in 2020. Building on this report, the current Special Rapporteur aims to follow-up on the recommendations made in that report and to expand the scope to examine the role of private actors, the various ways private actors can take part in water, sanitation and hygiene service provision and to clarify challenges and ways to address compliance with human rights to water and sanitation. In this context:

2.1. Have you come across policies and alliances based on Public-Public Partnerships (PUPs), between public institutions, that have sought to strengthen these public services? If so, please give concrete examples of successful PUPs, other forms of successful public management and financing and explain what did and did not work.

2.2. Crises can favour private investments to fill funding gaps in infrastructure and public services, if "austerity" strategies are applied, as was the case in the previous crisis (2007 - 2008). Given the economic crisis accelerated by the COVID-19 pandemic and the investment needs to prevent the impacts of climate change:

One could argue that in an economic crisis, this should drive water management to more efficiency, which would favour private operations. However, during economic crises, the political debate may also steer in the opposite direction. Indeed, the 2008 economic crisis did not trigger a wave of outsourcing. However, this crisis is totally different.

2.2.1. Have green funds or grants for climate change and environmental adaptation been applied or are planned for the water, sanitation and hygiene (WASH) sector? If so, has it further encouraged private actors into the WASH sector? In what ways? What has been the impact of these public or private funding contributions on communities and groups in vulnerable situations?

We have not seen an increase in green funds or grants for climate change and environmental adaptation being applied for water. There can be no argument that there is a desperate need for

this to happen. A recent update from UN Water on SDG6 data demonstrated that efforts need to be scaled up even faster.

Water and sanitation can attract private investment, the sector is attractive to private investors but there is a lack of projects due to several factors: lack of stimulation, reluctance to measure the impact on water price, lack of long-term vision and lack of planning. This has been the WASH sector's ongoing problem for many years.

Ultimately, it is the most vulnerable that suffer. The 2 billion without access to safe drinking water will continue to go without access and this number will rise due to the impacts of climate change. This is the real issue that matters and it renders any debates around whether more private sector actors are being encouraged as utterly meaningless.

2.2.2 What has been the impact of COVID-19 shaped public or private financing of WASH services and infrastructure? And what has been the impact on communities in vulnerable situations?

On market-based mechanisms as a response to water scarcity

3. There are various market-based options for managing water scarcity and its distribution to competing users. Although there are different models, what is common to all is the need to separate water rights and land rights, so that water rights/concessions/allocations/entitlements can be traded and potentially managed as a commodity. There are models, such as Water Banks, that organize transactions under public control and with strong regulations. There are also water trading markets that facilitate trade between entitlement holders and those who want to use that water. These water markets can be opened to speculators, who are not going to use the water rights at stake. Speculators are financial actors that promote speculative games (with high expectations of short-term benefits) between those who have water rights and those who seek to buy them. Although most water trading markets are localized, within a river basin or in basins interconnected by water transfers, with the entry of new financial players, water rights can be integrated into global financial markets, through financial derivatives, where water will receive the same treatment as other tradable commodities.

In your observations:

3.1. How are they designed the water markets you know and what is their purpose? i.e. to manage water scarcity and impacts of climate change, to deal with over- allocations, or to ease trading between water rights/entitlement holders? Is the water that is traded or banked understood as public or private property? And if private, what is actually privatised? For example, a set amount of water, a licence to extract a certain amount of water, or the concession.

3.2. Water trading markets impact communities in vulnerable situations in different ways, for example cultural water rights of indigenous peoples may not be taken into account, and small scale farmers can be priced out of the market due to increasing prices. What has been the impact of market-based mechanisms such as water trading and water banks on the ability for communities in vulnerable situations to both access and afford water and sanitation services?

3.3. In some water trading markets trading is limited to actors buying water for their own use (for example, agriculture, extractive industries, urban water services) and other markets

are open to speculators. What are the largest actors in the water trading market that you are aware of? And if markets are open to financial investors what type of companies are they, for example hedge funds, individual investors, International banks ... Are there differences between the impact of each type of actor and design of the water market on the price and availability of water?

3.4. The recently announced Nasdaq Veles California Water Index is the first example of water futures trading, what do you think will be the impact of this on the affordability and availability of water? And can you see this model expanding beyond California? If so, how?

3.5. Do you have any available research, evidence or anecdotal experiences of the impact of market-based mechanisms on communities in vulnerable situations?

On the commodification of water through bottled water

4. The extraction of water for beverages is an increasingly profitable industry. Water extraction companies can be given licences to extract groundwater or surface water or given access to municipal water supplies at low or marginal costs. Bottled beverages, including water, are sold at high profit margins and may be targeted at families in vulnerable situations who are wary of the quality of public water services or who have limited or poor quality access to such services. When groundwater or surface water is scarce, these businesses can increase the vulnerability of communities facing scarcity problems.

Drawing on your experiences:

4.1. What has been the impact of bottled water extractions on communities in vulnerable situations' access to water and sanitation services? Please share any evidence you have of this including research reports, anecdotal experiences, or testimonies.

The neglectable competition from bottled water seems a big problem in the view of those, who believe that water should be handled politically by a 100% (ignoring that technological, managerial and financial capacities are not invented and generated under political governance). In Germany, the legal prioritization for public supply with potable water is on the way to be reshaped to serve as another legal and tax privilege for the advantage of political functioneers and municipal water suppliers. However, many of the (in Germany) often small and medium sized family companies serving bottled water pump this from deep wells (by intention because they want healthy minerals and natural carbon) and are exploiting aquifers below the layers utilized for public supply. Furthermore, only 3 Liters from the 125 Liters of public supply water are used for drinking and cooking.

4.2. Are there mechanisms available for impacted communities to hold companies, the host-State and home-State to account for their impact on access, affordability and availability of water?

On Financialisation

5. Water and sanitation services and infrastructure can be "financialised" in different ways, this can mean a larger role for for-profit actors in the WASH sector: investors and private companies, financial actors including banks, international financial institutions, hedge funds, pension funds, and increasingly insurance services. Thus, the corporate space is expanding through the commoditization of water, the privatization of water and sanitation services or the inclusion of WASH infrastructures, services and even water, as a resource, in global financial markets.

The construction of this question shows a concerning lack of understanding of the economics of water and the connection and roles of various private sector organisations. Also, the first statement is a theoretical argument and the second a statement without any evidence. Is the ‘corporate space’ (a very broad term) really expanding in WASH? What evidence actually supports this?

We again recommend the SR seeks the advice of water and finance experts so that his report maps out clearly the type of private actors involved, their coverage in terms of the world population and the financial actors and makes clear the true distinctions between them. The SR’s report should be an opportunity for truth and clarity and not further anxiety caused by a lack of knowledge among some stakeholders,

We understand the concerns about the trading of a water derivative that triggered this SR’s report. AquaFed is very clear that nothing must come in the way of having the human right to water and sanitation delivered. But we call on the SR to make a responsible and clear distinction between private sector entrepreneurs and financial actors.

5.1. The financialization of WASH has been driven by different motivations, for example, to promote investments and expand services or to address water scarcity under the perspective of climate change. In your observations, which actors are involved and what are their motivations in pushing for or against:

- 5.1.1. Water trading markets including futures trading?
- 5.1.2. The privatisation of services and/or infrastructures?
- 5.1.3. Water pollution trading? For example, the trading of pollution credits on shared water systems.
- 5.1.4. The commodification of water through for example bottled water?
- 5.1.7. How has this changed over time? and are there new trends and developments?

5.2. There is ongoing debate on the role and impact of financialisation and speculation in water as a resource, WASH services and infrastructures. From your point of view, what are the possible repercussions of the participation of financial agents in the water markets developing speculative strategies?

5.3. Private actors have been involved in the WASH sector for many years, through privatization processes and public-private partnership strategies. What will change in your view with the advance of financialization involving the entry of powerful financial actors and speculative strategies in the futures markets?