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Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on extreme poverty and human rights; and the Special Rapporteur on the human right to safe drinking water and sanitation.

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on extreme poverty and human rights; and Special Rapporteur on the human right to safe drinking water and sanitation pursuant to Human Rights Council resolutions 25/17, 17/13, 24/18.

In this connection, we wish to bring to the attention of your Excellency's Government information we received regarding the ongoing water disconnections in the City of Detroit in Michigan.

According to information we have received:

The Detroit Water and Sewerage Department (hereinafter the DWSW) reportedly suffers a chronic deficit due to a decline in the number of residents and customers coupled with its aging water and sewer systems. The DWSW, to tackle the deficit, has increased an already high water price by 119 per cent within the last decade.

Because of a high poverty rate of about 40 per cent of the residents, and a high unemployment rate, the increased water and sanitation bills are unaffordable for a significant portion of the population. There are over 179,000 residential water accounts in Detroit city, and more than 83,000 of them were overdue as of 30 April 2014. The average water bill for a family of four is estimated to be 150 to 200 USD per month, when the average water bill for a same-size family in the United States as a whole is 40 USD. For thousands of poor households, this can represent as much as 20 per cent of their monthly income. This is much higher than international recommendations which indicate that water and sewerage

expenses should not exceed 3 to 5 per cent of household income. The costs associated with housing must not compromise the ability to maintain one's residence or access to other basic requirements including adequate food.

The DWSW has been disconnecting water services from households which have not paid bills for two months. Reportedly, there are families who have been living without water inside their households for over a year. Most of the households disconnected from water service are poor households, the majority of whom are African-American.

These disconnections also threaten the integrity of the family unit because in some cases child welfare authorities remove children from their homes in accordance with state policy requiring that water and sanitation services must be functioning in all houses with children. Some families send their children to live with relatives and friends out of fear of the authorities' interventions.

In March 2014, the DWSW announced its decision to accelerate the pace of disconnections from 2 June 2014 onwards by disconnecting 3,000 customers per week. In April, over 44,000 notices were sent to customers who had overdue bills, and some 30,000 households are expected to be disconnected from water services over the next few months.

The DWSW carries out disconnections based on the Interim Collection Rules and Procedures of the Detroit Water and Sewerage Department, which were put in place on an interim basis in 2003, but have not been finalized or amended since. The DWSW charges flatrate tariffs to all households regardless of their economic status or other difficulties, which exacerbates the problem of the unaffordability of adequate housing, in particular due to high prices of water and sanitation services. The DWSW then issues a water shutting-off notice after a 60-day period of non-payment. The procedure does not include any protection measures for those who cannot afford the service or for vulnerable or disadvantaged households, except for a postponement of 21 days where a customer proves a serious illness of a family member. Once service is shutoff, administrative and monetary requirements for the reconnection imposed by the DWSW make it difficult for people to request reconnection which prolongs the period of disconnection.

The City of Detroit works with the Water Access Volunteer Effort, an independent non-profit organization, and the Detroit Residential Water Assistance Programme implemented by the Department to assist poor households in paying water bills. However, these funds rely entirely on voluntary donations. Detroit ratepayers have the option to donate 50 cents per water bill to the funds, but their funding is much too little to support all households who cannot afford water bills.

The Detroit City Council proposed a more comprehensive Water Affordability Plan in 2006, but it was not adopted.

Residents have also noted that these price rises are linked with rises in the cost of other utilities, rendering access to housing in a central location increasingly unaffordable and inadequate. Reportedly, there is interest in facilitating gentrification of prime land in the city centre by cutting off services and reducing the quality of existing utilities, such as is the case of water services, instead of investing in fixing linking pipes and enhancing existing infrastructure. For some low-income residents, pressure on water and sanitation services is perceived as a way of forcing people out of the city, potentially to face homelessness or to find alternative housing outside the city centre, allowing for high-end housing projects to be developed in prime land.

The human right to safe drinking water and sanitation derives from the right to an adequate standard of living which is protected under, inter alia, article 25 of the Universal Declaration of Human Rights, and article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which the United States Government signed on 5 October 1977. While it has not ratified the Covenant, upon signing the ICESCR, the United States Government agreed to bind itself in good faith to ensure that nothing is done that would defeat the object and purpose of the international instrument, pending a decision on ratification. Moreover, on 28 July 2010 the United Nations General Assembly recognized water and sanitation as a human right. This decision was subsequently endorsed by the United Nations Human Rights Council in September 2010. The United States Government publicly declared that it was “proud to take the significant step of joining consensus” on the latter resolution, thereby expressing clear support for recognition of this fundamental human right.

The Committee on Economic, Social and Cultural Rights (CESCR), in its General Comment 15 (para. 44), noted that arbitrary or unjustified disconnection from water services may amount to a violation of the human right to water. The CESCR put forward a number of criteria designed to guarantee that any interference with the right to water, such as through disconnection or termination of service, will be carried out according to the law and in a manner that is consistent with international human rights. In cases of arrears or non-payment, ability to pay must be taken into account and, in all cases of disconnection of services, the State must provide (a) an opportunity for genuine consultation; (b) timely and full disclosure of information; (c) reasonable notice; (d) legal recourse and remedies; and (e) legal assistance.

In relation to the right to adequate housing two articles are of particular relevance: Article 5(e)(iii) of the Convention on the Elimination of Racial Discrimination (CERD), ratified by the United States 21 October 1994, and article 11 of the International

Covenant on Economic, Social and Cultural Rights (ICESCR). Article 11 stipulates that States recognize “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”, and requires them to “take appropriate steps to ensure the realization of this right” (article 11(1)). The Committee on Economic, Social and Cultural Rights in its General Comment No. 4 (1991) has stressed that this means the right to live somewhere in security, peace and dignity, including guarantees of habitability as well as a guarantee of available services, materials, facilities and infrastructure, including sustainable access to safe drinking water and sanitation and washing facilities. (para. 8.b)

We would also like to draw the attention of your Government to the principles of equality and non-discrimination, which are core elements of the international human rights normative framework and enshrined, inter alia, in article 2 of the Universal Declaration of Human Rights and articles 2 of the International Covenant on Economic, Social and Cultural Rights, and of the International Covenant on Civil and Political Rights (ICCPR) and other human rights treaties that the United States has ratified.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org /can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

It is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Council, we would be grateful for your cooperation and your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations?
2. Could you please provide us with disaggregated data on who has been issued the notifications by race, family status, ability, etc. and whether the DWSW’s actions will exacerbate homelessness of African-Americans?
3. Could you please tell us what legal remedies are available to those who allege that these increases are compromising their rights to water and sanitation and to adequate housing?
4. What measures are being taken to ensure affordability of water service for those who cannot afford to pay such tariffs for reasons beyond their control including unemployment and poverty?

5. What measures have been undertaken by the Government to follow up on the recommendation made by the Independent Expert on Human Rights Obligations related to Access to Safe Drinking Water and Sanitation after her mission to the United States in 2011, calling upon the Government to adopt a national water and sanitation affordability standard?
6. What measures are being taken to ensure alternative sources of water for those who have been disconnected from water service?
7. What plan does the government have in place to ensure that people affected by the water-cuts can remain in their homes so that they are not forced to move, including potentially the risk of being left homeless?
8. What measures are being taken to ensure integrity of family if children are not allowed to live in houses without functioning water and sewerage services?
9. What measures are being taken by the State of Michigan and the federal Government to prevent such potential violations of the right to an adequate standard of living, including adequate housing and the human rights to water and sanitation by the local authorities?

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We are intending to publicly express our concerns in the near future as we are of the view that the information on which this urgent appeal is based and which will inform the press release is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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