

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

REFERENCE:
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I have the honour to address you in my capacity as Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolution 33/10.

In this connection, I would like to bring to the attention of your Excellency's Government the information I have received concerning **the human rights to safe drinking water and sanitation of the population of the Kamaran island, Republic of Yemen, particularly in relation to the recent destruction of the desalination water plant following the attack in July 2017.**

According to the information received:

Approximately 3,000 inhabitants living in the Kamaran island of the Republic of Yemen have no access to safe drinking water nor a functioning water purification plant. Further, no existing sewerage system is in place on the island.

On 5 July 2017, the Saudi-led coalition reportedly targeted the only desalination water plant in the island of Kamaran. It is reported that the desalination water plant is completely destroyed from the attack.

When it was operational, the plant provided approximately three thousand cubic meter of drinking water per day. After the destruction, there are no means to purify drinking water and consequently, the population of the Kamaran island is depending on wells as the source of drinking water. It is alleged that the population, particularly women and children, are forced to fetch water from wells from far locations ranging from 30 minutes to five hours.

Additionally, some residents are forced to buy one cubic meter of water at USD 3.30 from those who transport drinking water from the water wells which were dug after the destruction of the purification plant. Allegedly, this amount exceeds the daily wage of individuals and is excessive given that small-scale fishing, the main economic activity for the population, is currently not possible due to airstrikes. Currently, both subsistence and commercial fishing are not possible, consequently impacting the livelihood of fishers and their family members.

Grave concern is expressed that the population in the Kamaran island is suffering from lack of access to safe drinking water and sanitation due to the attack on the desalination plant. In particular, I express concern that the destruction of the plant and the lack of sewerage system in the Kamaran island render the drinking water from water wells vulnerable to contamination and may further aggravate the epidemic of cholera and other water-borne diseases.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comments(s) you may have on the above-mentioned allegations.
2. Please provide information on whether your Excellency's Government as the leading member of the coalition forces was informed of and/or provided consent or assistance to carry out the above mentioned attack on the desalination water plant.
3. Please provide information on any assessment made, to your knowledge, by coalition or other forces involved prior to carrying out the above mentioned attack in order to determine that the civilian population and the desalination water plant vital to ensuring access to safe drinking water are effectively protected. Please specify the targeting criteria used and the procedural safeguards, if any, employed to ensure that these actions complied with international law.
4. Please provide information on any investigation carried out by Saudi authorities and/or other coalition forces into the above mentioned attack.

I would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, I 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(s) responsible for the alleged violations.

I intend to publicly express my concerns in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that I have been in contact with your Excellency's Government's to clarify the issue/s in question.

I would like to inform your Excellency's Government that a letter of similar content will be sent to the Government of Yemen.

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

Léo Heller
Special Rapporteur on the human rights to safe drinking water and sanitation

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, I would like highlight that the human rights to water and sanitation are essential human rights set forth in the International Covenant on Economic, Social and Cultural Rights (hereinafter “ICESCR”), the Convention on the Rights of the Child (ratified by Saudi Arabia in January 1996), the Convention on the Elimination of All Forms of Discrimination against Women (ratified by Saudi Arabia in September 2000), and the Convention on the Rights of Persons with Disabilities (ratified by Saudi Arabia in June 2008). Article 11 of the ICESCR consecrates the right to an adequate standard of living and article 12 of the ICESCR provides for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The Committee on Economic, Social and Cultural Rights, in its General Comments 14 and 15, establishes water as an underlying determinant of health and as a human right, derived from the right to an adequate standard of living. Additionally, the United Nations Human Rights Council in its resolution 15/9 of 2010 and United Nations General Assembly in its resolution 64/292 of 2010 explicitly recognized the human right to safe drinking water and sanitation.

Furthermore, the United Nations General Assembly in its resolution 70/169 of 2015 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 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, while reaffirming that both rights are components of the right to an adequate standard of living”.

I would like to remind your Excellency’s Government that its obligations under international human rights law continue to apply in the context of armed conflict, as acknowledged by the International Court of Justice (Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996, paras. 24-25; Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004, para. 106.), the Human Rights Committee (General Comment 29, States of Emergency, para. 3) and the Committee on Economic, Social and Cultural Rights which “remind[ed] the State party that even during armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights as part of the minimum standards of human rights are guaranteed under customary international law and are also prescribed by international humanitarian law.” (Concluding observations on the initial report of Israel; 2001, para. 12).

Customary international law requires States to take all feasible precautions to avoid, and in any event, to minimize incidental loss of civilian life, injury to civilians and damage to civilian objects. International humanitarian law, through the principles of proportionality, distinction and precaution, prohibits deliberate attacks on civilians and

civilian objects, and attacks which do not discriminate between civilians and combatants or military objectives, or which cause disproportionate harm to civilians objects in relation to the anticipated military advantage which may be gained by such attack.

International humanitarian and human rights law also provide that States must investigate allegations of war crimes committed either by their nationals or armed forces, or on their territory by a foreign State, or over which they have jurisdiction, and, if appropriate, prosecute the suspects, and make full reparation for the loss or injury caused.