

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

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(Please use this reference in your reply)

22 April 2022

Excellency,

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 42/5.

In this connection, I would like to bring to the attention of your Government information I have received concerning the **legislative and policy framework on the prohibition of water disconnections for those who are incapable of paying, in particular, in the context of COVID-19**.

Legal framework

Disconnection of water services because of failure to pay due to lack of means constitutes a violation of the human rights to safe drinking water and sanitation and in order to prohibit such disconnections, it is imperative that the human rights to safe drinking water and sanitation are explicitly recognized in the legal framework. In relation to the legal framework, I note the following information:

- The Constitution of the Republic of Liberia 1986 does not explicitly recognize the human rights to water and sanitation.
- Based on the information reviewed, there are no legal measures prohibiting water disconnections for those who are unable to pay. Moreover, the legal framework does not include any provision to guarantee a minimum essential level of water supply.

It is of great concern that the Republic of Liberia does not explicitly recognize the human rights to water and sanitation in its legal framework. The human rights to safe drinking water and sanitation - both the human right to water and the human right to sanitation - as components of the right to an adequate standard of living are essential for the full enjoyment of the right to life and all human rights as stipulated in article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which was ratified by your Excellency's Government in 2004. In addition, as your Excellency will note in 2015, the human rights to safe drinking water and sanitation were explicitly recognized by the UN General Assembly in its resolution 70/169, which was supported by Liberia (A/70/489/Add.2, para. 143). Through that resolution, your Excellency's Government 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 also like to point out that the lack of explicit recognition of the human rights to water and sanitation constitutes a major obstacle to their implementation and compromises their justiciability at the national level. Any individual or group whose rights to water or/and sanitation that have been violated should have access to effective judicial and other remedies in order to receive adequate reparation, including restitution, compensation, satisfaction or guarantees of non-repetition (Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15 (2002) (E/C.12/2002/11), paras. 55 and 56). In this regard, explicit recognition of the human rights to water and sanitation should be reflected not only through adequate legislation but also through autonomous regulatory bodies ensuring that water and sanitation services are provided within the legal framework of human rights. Furthermore, the Government of Liberia should monitor and promote policy changes consistent with human rights.

Furthermore, I wish to reiterate that disconnection of water and sanitation services due to an inability to pay for the service is a retrogressive measure and constitutes a violation of the human rights to water and sanitation (CESCR, General Comment No. 15 (2002) (E/C.12/2002/11), para. 44a). Such retrogressive measure is incompatible with the international human rights obligations pertaining to the human rights to water and sanitation. Also, the African Commission on Human and Peoples' Rights (Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights, para. 92.k) recommends that States ensure that procedures take into account the individual's ability to pay and therefore disconnections for non-payment should not result in a person being denied access to a minimum amount of safe drinking water where that person proves that he or she is unable to pay for these basic services.

Policy implemented during the pandemic

The affordability of water and sanitation services and disconnections are inextricably linked, as in many instances the failure to pay for services leads to disconnection, which has been highlighted during times of COVID-19. In this regard, I note the following information relating to the policy implemented during COVID-19:

- On 21 March 2020, the Minister of Health declared a national health emergency concerning the COVID-19 pandemic.
- On 8 April 2020, the President declared a nationwide state of emergency for 21 days and imposed 14 days of lockdown in several regions including the capital and Monrovia from 10 April 2020. No further lockdown measures were implemented. The state of emergency was further extended until 21 July 2020 and no additional announcement was made thereafter.
- On 25 January 2021, the President delivered the annual message to the fourth session of the fifty-fourth national legislature and stated that “the Government [...] provided US\$ 1.5 Million to the Liberia Water and Sewer Corporation to fund water subsidies for almost five months, benefitting nearly 10,000 households from a targeted network base of 12,000 households. This means that eighty-three (83%) percent of the targeted base, or almost 50,000 Liberians, benefitted in Montserrado, Grand Bassa and Margibi

counties.”

I note the above-mentioned announcement by the President to allocate US\$ 1.5 million of funds to the Liberia Water and Sewer Corporation as subsidies. The human rights to water and sanitation require that the direct and indirect costs and charges associated with securing water must be affordable (CESCR, General Comment No. 15 (2002) (E/C.12/2002/11), para. 12). To ensure that water is affordable for all, States must develop appropriate pricing, tariff and subsidy structures. As one of the measures, subsidies could apply to low-income households, to areas populated predominantly by low-income communities, or to small-scale services likely to be used by those living in poverty or on a low-income (A/HRC/30/39, paras. 56-60). While the fund allocation as water subsidies is said to benefit 50,000 people in Liberia for almost five months, given that no additional measures have been announced thereafter, I am concerned that a one-time allocation of funds to subsidize the targeted network’s water does not provide a sustainable measure for the population to have continuous access to water and sanitation in the long-term and for population living in areas without access to piped water network.

I would like to express my deepest concerns regarding the lack of policy or measures to prohibit water disconnections for those who are unable to pay during and after the COVID-19 pandemic, especially for people in vulnerable situations in the Republic of Liberia. The adoption of such policy during the pandemic is essential to ensure sanitary recommendations to prevent contamination from COVID-19. In this regard, I would like to emphasize that the human rights to water and sanitation requires States to provide drinking water supply for each person which is sufficient and continuously available for personal and domestic uses (CESCR, General Comment No. 15 (2002) (E/C.12/2002/11), para 12(a)). It should be noted that notwithstanding the persistence of COVID-19 pandemic, disconnection of water services due to incapacity to pay constitute human rights violations that all States must avoid at all costs in accordance with their international human rights obligations.

Moreover, I am particularly concerned about the absence of a policy to guarantee the provision of a minimum essential level of water supply during and after the COVID-19 pandemic. The adoption of such a policy is particularly important as water and sanitation are key determinants of health, especially during the current efforts to curb the spread of the COVID-19 pandemic (CESCR, General Comment No. 14 (2000) (E/C.12/2000/4), para. 11). In the context of the COVID-19 pandemic, guaranteeing access to water and sanitation is the basis of prevention and can thus save the lives of many people, especially those in vulnerable situations.

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 be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the matters mentioned above.
2. In relation to the President’s announcement of the US\$ 1.5 million fund announced by to the Liberia Water and Sewer Corporation as the water subsidies for the targeted network:
 - a. Please provide the criteria and/or definition of how the targeted network base for water subsidies was identified.

- b. Please provide disaggregated information by race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other status from people who were benefited from the water subsidies.
3. Please provide any information relating to the measures taken and policies adopted to protect populations from disconnection of water services due to non-payment during the COVID-19 pandemic.
4. Please provide information on legal remedies available to people whose water supply is cut off due to their inability to pay.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Pedro Arrojo Agudo
Special Rapporteur on the human rights to safe drinking water and sanitation