

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

Ref.: OL MUS 1/2022  
(Please use this reference in your reply)

14 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 Excellency's Government information I have received concerning the **legislative framework on the prohibition of water disconnections for those who are incapable of paying, in particular, in the context of COVID-19**.

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 Mauritius of 1968 with Amendments (amended in 2016) does not explicitly recognize the human rights to water and sanitation.
- The Central Water Authority Act 1971 (amended in 2005) establishes the Central Water Authority (hereinafter referred to as "the Authority"), which has special powers to determine and levy rates or fees for the supply of water and may discontinue the supply of water to any consumer who discharges polluted water underground or into any water body (section 21). Furthermore, the Authority carries out the function of collecting wastewater fees and charges (section 21A). If a consumer fails to pay wastewater bills within 21 days of the issue of the bill, the Authority may impose a surcharge of 10 per cent of the amount of fees, rates, charges and disconnect the water supply (section 21A(3)).
- "The Central Water Authority Act (Water Supply for Domestic Purposes) Regulations 1992" regulates the provision of domestic water supplied by the Authority. According to section 11 of the Regulations, the Authority can discontinue the supply if a consumer fails to pay the water bill for sixty days from the date of the bill issued.
- On 16 May 2020, the Parliament of Mauritius passed the "Covid-19 (Miscellaneous Provisions) Act 2020" which amended a number of laws, including the addition of a new subsection of section 21A of the Central Water Authority Act. According to the new subsection 21A(5), even if the consumer fails to pay wastewater bills after 21 days from the issue of the bill, during the COVID-19 period or such further period as may be prescribed after the COVID-19 period lapses, no surcharge - a 10 per cent of the amount of fees, rates or charges - will be applied to the bill and the Central Water

Authority will not disconnect the water supply.

It is of great concern that the Republic of Mauritius 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 1973. 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 Mauritius (A/70/489/Add.2, para. 144). 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 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 Mauritius should monitor and promote policy changes consistent with human rights.

I welcome the "Covid-19 (Miscellaneous Provisions) Act 2020" which amended the Central Water Authority Act to prohibit water disconnections during the COVID-19 pandemic. Notwithstanding the persistence of COVID-19 pandemic, disconnection of water services due to incapacity to pay 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.

Furthermore, I express my concerns about the lack of policy or measures to guarantee a minimum essential level of water supply during the period of the

COVID-19 pandemic, especially for people in vulnerable situations in the Republic of Mauritius. 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 section 4 of the “Covid-19 (Miscellaneous Provisions) Act 2020”, which stipulates the prohibition of water disconnections during the COVID-19 pandemic by adding the new subsection of the Central Water Authority Act:
  - a. Please provide information on the implementation of section 4 of the “Covid-19 (Miscellaneous Provisions) Act 2020” in practice.
  - b. Please provide disaggregated information by race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other status of the population who have benefited from the new subsection of the Water Authority Act 16 May 2020.
3. Please provide information on legal remedies available to people whose water supply is cut off due to their inability to pay.
4. Please provide information on legal and policy measures taken to ensure the affordability of water services for those who are unable to pay their bills for reasons beyond their control, including unemployment and poverty, during and after the COVID-19.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency’s 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