

**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)

14 March 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 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 Uganda (1995) in its preamble, states that "all Ugandans enjoy rights and opportunities and access to [...] clean and safe water [...]" (national objective XIV). Furthermore, objective XXI of the preamble defines the role of the government in ensuring universal access to the right to water, stating that the government shall take all practical measures to promote a good water management system at all levels.
- The Water Act (Cap.152) of 7 April 1997 does not explicitly recognize the human rights to water and sanitation. However, the main objective of the Act is to promote the provision of a clean, safe and sufficient supply of water for domestic purposes to all persons (section 4(b)). Furthermore, according to section 82 of the Act, the water authority may restrict the quantity of water or discontinue the supply of water to any person if that person contravenes this Act through waste, misuse or pollution of water and contravenes any water restrictions in force.
- The Water Supply Regulations, published under section 107 of the Water Act, on 1 January 1999, stipulates that water charges of public water supply have to be paid within fourteen days from the date of receipt of notice from the water authority (section 28 of Water Supply Regulations). Whenever water supply is disconnected or restricted under section 82 of the Water Act, the water authority will not restore the water supply until any outstanding rates, charges, fees, interest, or penalties payable in respect of any water or sewerage services supplied are paid (section 24 (a)) or the reconnection fee specified in the tariff structure as predetermined by the authority, with the approval of the Minister of Water and Environment, are paid (section 24(b)).

- Based on the information reviewed, there are no legal measures prohibiting water cuts for those who are unable to pay. Moreover, the legal framework does not include any provision intended to guarantee a minimum water service for those who are unable to pay.

I would like to congratulate Uganda for explicitly recognising the human right to water in the Constitution. However, it is of great concern that the legal framework of the Republic of Uganda does not recognise the human right to sanitation. I wish to reiterate that the human right to water and the human right to sanitation are closely interlinked but they are two distinct rights. 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 which was ratified by your Excellency's Government in 1987.

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 the Republic of Uganda (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 human rights to safe drinking water and sanitation are closely related, but have features that warrant distinct treatment in order to address specific challenges in their implementation. The absence of human right to sanitation leads to a gap in the legislative framework. I am deeply concerned as inexistent or inadequate sanitation facilities as well as serious deficiencies in water management and wastewater treatment can negatively affect water provision and sustainable access to safe drinking water. In this regard, I wish to note that the resolution 70/169 which was adopted by consensus that "in progressively realising the human rights to safe drinking water and sanitation as well as other human rights, States should increasingly pursue integrated approaches and strengthen their water resource management, including by improving their wastewater treatment and by preventing and reducing surface and groundwater pollution".

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 (Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15 (2002) (E/C.12/2002/11), para. 44a). Such retrogressive measures 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 18 March 2020, the President of the Republic of Uganda declared a national emergency concerning the COVID-19 pandemic and presented the first guidelines on the preventive measures on the COVID-19 in his speech. On 24 March 2020, the Minister of Health published the President's guideline in the Public Health (Control of COVID-19) Rules, 2020 (Statutory Instrument No.52 of 2020) in the official government gazette.
- On 30 March 2020, the President declared a national-wide overnight curfew for a period of 14 days and issued guidelines, which declared electricity and water as essential services. Furthermore, the President stated that "it is not correct to disconnect water or electricity on account of non-payment during this time of shutdown". On 31 March 2020, the Minister of Health issued the Public Health (Control of COVID-19, No.2) Rules 2020 (Statutory Instrument No.55 of 2020) to implement the President's statement of 30 March 2020.
- In response to the President's statement, the Uganda National Water and Sewerage Corporation (NWSC) - a public utility company wholly owned by the Government - suspended water disconnections for non-payment customers and continued its operations. In addition, NWSC mobilised emergency support to secure and extend water services in water stressed urban area of Kampala by installing a total of 100 bulk water points with a 10,000 litre capacity water tank each that supplies water at the official NWSC public tap tariff of UGX 25shs per 20 litre jerry can. Further, NWSC built 23 emergency water reservoirs that would be refilled using water trucks, and provided low-cost water service provision arrangement to set to benefit 30,000 residents in informal settlements.
- On 4 May 2020, the President stated in his speech that the essential services (i.e., electricity and water) should continue to operate. The nation-wide lockdown and curfew were further extended until 22 July 2020 as published in the Public Health (Control of COVID-19, No.2) Rules 2020 (Statutory Instrument No.83 of 2020).
- On 18 June 2021, the President re-imposed a 42-day nation-wide lockdown to prevent the spread of the virus. In response to this lockdown announcement, NWSC suspended all disconnection of water services which related to water bill arrears for customers who cannot afford to pay water bills due to the impact the COVID-19 lockdown has had on their sources of income. The lockdown for period of 42 days was partially lifted on 21 August 2021. On 7 January 2022, the Ministry of Health announced the gradual opening of the economy.

- Based on the information reviewed, there is no policy to guarantee the provision of a minimum quantity of water during the COVID-19 pandemic.

I welcome the above-mentioned initiative by the President of the Republic of Uganda, implemented by the NWSC to provide water service and prohibit disconnections on water supply of non-payment during the prolonged national lockdown period until August 2021. However, I express my deepest concerns about the lack of policies relating to water cuts for non-payment after August 2021, given that no additional measures have been announced thereafter. Similarly, while measures have been taken to provide water points in urban areas of Kampala and low-cost water service provision arrangements in informal settlements at the beginning of COVID-19 (March 2020), no further measures have been announced after March 2020. I would like to highlight the importance of sustainable and continuous measures to provide water and sanitation services in the long-term, in particular, with the prolonged COVID-19 situation. In this regard, I would like to emphasise 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(1)).

In addition, I would like to welcome the President's repeated statement, announcing the guidelines, which declared electricity and water as essential services. However, it is of concern that the concrete guidelines to continue to supply water services are absent which are essential to facilitate the water and sanitation providers to provide access to water and sanitation. Furthermore, I am particularly concerned about the absence of a policy to guarantee the provision of a minimum quantity of water for those who are unable to pay during the COVID-19 pandemic. The adoption of such a policy is particularly important as water and sanitation are the underlying 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 minimum access to water and sanitation is the basis of prevention and can thus save the lives of many people, especially those in vulnerable situations.

Finally, I would like to stress that the above mentioned concerns are heightened by the ongoing COVID-19 pandemic and the need for people, particularly those in vulnerable situations, to have access to water and sanitation in order to comply with the recommendation to wash their hands as a preventive measure against COVID-19. Further, it should be noted that, both during the time that the COVID-19 pandemic persists and when it is overcome, 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.

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 measures announced on 30 March 2020 by the President of the Republic of Uganda, please indicate information related to water service cuts for non-payment between July 2020 and June 2021, and after August 2021 when the lockdown measure was lifted.
3. In relation to the measures implemented by Uganda National Water and Sewerage Corporation (NWSC), please indicate detailed information on the number of households that benefited the policy that suspended water disconnections since March 2020.
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.
5. Please provide information on legal remedies available to people whose water service is disconnected 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 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