

COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

COUNCIL UPDATE – ACCESS TO SAFE DRINKING WATER AND SANITATION HUMAN RIGHTS COUNCIL, 10TH SESSION 10 MARCH 2009

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Overview

As part of the thematic dialogues, which were held under Item 3 covering the promotion and protection of all human rights, the Independent Expert on the issue of human rights related to access to safe drinking water and sanitation, Ms Catarina de Albuquerque, presented her first preliminary report to the Human Rights Council (the Council).¹ In presenting the report she mainly outlined how she intends to fulfil her mandate in the coming years, as she only assumed her function in November 2008.

During the interactive dialogue, States generally welcomed her thematic approach and in particular her focus on the issue of sanitation in the first year. Ms de Albuquerque justified her focus on sanitation by pointing to the grave consequences the lack of sanitation has and that despite the benefits of ensuring access to sanitation, it remains the most neglected and most off-track of the Millennium Development Goals (MDGs). States not only welcomed her approach, but also supported and encouraged her future work and expressed anticipation regarding the findings and recommendations resulting from her work. Even though States acknowledged the need to pay increased attention to sanitation, attention to the report of the Independent Expert was limited. Perhaps this was due to the simultaneous consideration of reports by the Special Rapporteurs on the right to food and on adequate housing.

Item 3 - Independent Expert on access to safe
drinking water and sanitation

Introduction of the preliminary report

The Independent Expert, Ms Catarina de Albuquerque, explained her approach to fulfil her mandate according to Council *Resolution 7/22*. Firstly, she intends to identify, promote and exchange views with various stakeholders such as governments, relevant UN bodies, the private sector, local authorities, national human rights institutions

¹ A/HRC/10/6 available at www2.ohchr.org/english/bodies/hrcouncil/10session/reports.htm.

(NHRIs), civil society organisations and academic institutions on best practices related to access to safe drinking water and sanitation. The findings will be then compiled in a compendium of best practices.² Secondly, she will undertake a study in cooperation with various stakeholders to further clarify the content of human rights obligations, including non-discriminatory obligations, in relation to access to safe drinking water and sanitation. Thirdly, she will also develop recommendations that could help the realisation of the MDGs.

Overall, the Independent Expert intends to take a thematic approach to her mandate. In the first year, she will focus on the issue of sanitation as an issue of grave concern. Ms de Albuquerque pointed out that despite the gravity of the problem and the high number of deaths resulting from a lack of sanitation, it has been a historically unpopular and neglected issue. The Independent Expert therefore called on the Council to take on a leading role in this matter, including by shedding its hesitation to ‘call a toilet a toilet’. In the future, she also intends to focus on the link between water, sanitation and the private sector as well as water, sanitation and climate change.

Ms de Albuquerque drew attention to expert consultations on human rights obligations regarding access to sanitation, to be held in April. These consultations will be open to the participation of NGOs, NHRIs and individuals. She will also discuss the relations of sanitation to the MDGs during a mission to New York and will visit Costa Rica this year. She has been in contact with several States to discuss future country visits. So far, her requests have been met by positive feedback from States.

Interactive Dialogue with Independent Expert

The interactive dialogue was held in a **positive atmosphere**, reflecting the open approach of Ms de Albuquerque to her mandate. Many States thanked her for her preliminary report and stated that they are looking forward to the outcome of the consultations regarding best practices, human rights obligations and recommendations.³ All States that addressed the Independent Expert, welcomed her thematic approach and acknowledged that sanitation has not drawn sufficient attention so far. Additionally, most States expressed their willingness to cooperate with the Independent Expert. Nevertheless, the Independent Expert received significantly less questions and comments in comparison with the two Special Rapporteurs on right to food and housing. This might be due to the fact that the Independent Expert started her mandate only in November and that she was only able to present a preliminary report, which mainly outlined her approach rather than specific findings. Part of the explanation could also be the choice of topic for the first year. As the Independent Expert noted, sanitation has been a very unpopular topic in the past, which has never been high on the political agenda.

Several comments focused on the **status of a ‘right to water and sanitation’** and State obligations flowing from this. Germany enquired if the Independent Expert sees a self-standing human rights to access to water and sanitation. The Independent Expert responded that she is not yet able to answer the question and she will report on that matter in the coming years. Turkey asked if the consultations would focus specifically on the scope of human rights obligations in relation to sanitation. The Independent Expert outlined that she would first prepare background papers, which will be discussed initially with selected experts. At a later stage, the discussions will be opened up for governments, NGOs, regional institutions and other stakeholders. Together with Turkey the Independent Expert expressed her hope that the outcome document of the World Water Forum will be able to reaffirm the existence of human rights obligations in relation to sanitation.⁴

The Commission for Human Rights of the Philippines argued that the focus should be on further developing human rights obligations on sanitation, instead of simply collecting best practices. In response to a question by the Czech Republic on how to assure that continuous attention is paid to the specific issue of sanitation, the Independent Expert suggested that sanitation needed to be put on the international agenda and discussions on the

² The Independent Expert highlighted that she will use the term good practices rather than best practices as best practices imply that all available practices have been assessed.

³ Indonesia, China, Czech Republic (on behalf of the EU), Germany, Switzerland, Uruguay, Spain, Turkey, Yemen, Egypt, Algeria, Portugal, Bangladesh, Morocco

⁴ The World Water Forum will be held in Istanbul from 16 to 22 March 2009.

topic need to be forced. She added that human rights obligations regarding sanitation exist and sanitation is not a matter of charity, but a human rights issue.

Human Rights Advocates expressed concern that the access to safe drinking water and sanitation remains an implicit rather than an explicit right. It stressed that recognising access to water a right for all would facilitate the realisation of related human rights such as the right to food.

Germany wished to know what further steps would be needed **to achieve MDG** seven and in particular its Target 3.⁵ The Independent Expert pointed out while the target to halve the population without sustainable access to safe drinking water will be achieved by 2015, the target on access to basic sanitation is far from being met. According to the Independent Expert, this is based on the current lack of attention by States, international institutions and other stakeholder. In her opinion, investment in sanitation needs to be significantly increased, including in the context of official development assistance (ODA). She stressed that awareness about the life-saving effects of access to sanitation needs to be raised, which was supported by various States. Moreover, the Independent Expert suggested that lead agencies at the national level should take responsibility to ensure access to sanitation.

Portugal also wondered whether the **global economic crisis** would affect access to sanitation. The Independent Expert emphasised that a decrease in ODA would negatively affect the situation. She stressed that States parties to the *Covenant on Economic, Social and Cultural Rights (CESCR)*, are still obliged under Article 2 to take steps towards the full realisation of the rights outlined the Covenant.⁶ She said that retrogressive measures therefore would have to be carefully considered and justified in the context of the ‘maximum available resources’. She stressed that the severity of the situation regarding the current lack of sanitation makes further financial cuts impossible and therefore the crisis should not be used as an excuse for decreasing spending. The Independent Expert suggested low costs programmes would be a possibility to address the issue.

Several States outlined their **national policies** regarding access to safe drinking water and sanitation.⁷ Luxembourg pointed out that access to safe drinking water and sanitation is one of the main pillars of its development policies. Portugal asked if the Independent Expert could give examples of existing best practices regarding sanitation. Ms de Albuquerque admitted that criteria on best practices would have to be established first. Human Rights Advocates also acknowledged the progress made by specific countries in relation to the access to water including Bolivia, Ecuador and South Africa. Egypt invited the Independent Expert for an official visit soon.

Responses by the Independent Expert

The Independent Expert gave very detailed answers, responding to most questions by directly addressing the delegations concerned. This again underlined the constructive nature of the debate with between the Council and Ms Albuquerque. It will be interesting to see if this supportive relationship persists when the Independent Expert presents States with a clearer picture on the scope of their human rights obligations in relation to access to safe drinking water and sanitation.

⁵ MDG 7 Target 3 is to halve by 2015 the proportion of the population without sustainable access to safe drinking water and basic sanitation

⁶ Article 2, paragraph 1: Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant (...).

⁷ China, Uruguay, Algeria and Morocco, Luxembourg, Spain, Egypt.

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The Council Monitor forms part of the Human Rights Monitor Series produced by ISHR. It provides you with information about all the key developments at the Human Rights Council, including Daily Updates during the session of the Council, an Overview of the session, briefings and updates on the major issues of concern in the transition from the Commission on Human Rights to the Council and other key reports. It is currently an online publication that can be found at www.ishr.ch.

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