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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Plan and vision for the mandate from 2020 to 2023

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

Summary

The world is facing a global water crisis generated by the confluence of two structural flaws in the current development model: the unsustainability of the aquatic ecosystems, which damages the quality of its flows, turning water from being the key to life into a terrible vector of disease and death; and the poverty, inequality and discrimination that prevail under the current socioeconomic order. In addition, the world is suffering from three factors that directly and indirectly aggravate and intensify that global crisis: the commodification and financialization of water, climate change and recently, the coronavirus disease (COVID-19) pandemic, which has deepened inequalities and extended poverty. In the context of the global water crisis, three challenging objectives will mark the main strands of the mandate holder's work from 2020 to 2023: (1) clarifying ways to promote democratic water and sanitation governance; (2) furthering the realization of the human rights to safe drinking water and sanitation, focusing on restoring the sustainability of aquatic ecosystems; and (3) promoting water as a key to collaboration and peace.



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I. Introduction

1. Pursuant to its resolutions 16/2 and 45/8, the Human Rights Council encouraged the Special Rapporteur on the human rights to safe drinking water and sanitation, Pedro Arrojo Agudo, to work on identifying challenges and obstacles to the full realization of those rights, as well as protection gaps thereto, and to continue to identify good practices and enabling factors in that regard. In the present report, the first submitted by the current mandate holder, the Special Rapporteur presents his plan and vision for the first three years of his mandate, from 2020 to 2023.

2. In preparation for the present report, the Special Rapporteur convened a series of consultations with various stakeholders. From 1 to 3 December 2020, he held initial consultations with Member States and civil society. From January to April 2021, he convened a series of bilateral consultations with international and regional organizations.¹ In addition, he convened a series of round tables with specific non-governmental organizations and continued to have ongoing dialogue with defenders of the human rights to safe drinking water and sanitation through an open channel of dialogue, where defenders can easily make an appointment with the Special Rapporteur.² Furthermore, the Special Rapporteur received about 100 submissions in response to his call for input.³

3. In the current report, the Special Rapporteur introduces his vision and the values that will guide him during his mandate, focused on the socio-environmental approach to the human rights to safe drinking water and sanitation and the promotion of democratic water and sanitation governance (sect. II). Subsequently, his reflections on the current state of play of the global water crisis are illustrated together with the two major structural flaws of the crisis and three factors that deepen the crisis (sect. III). Lastly, he sets out concrete objectives and plans for his first three years as mandate holder (sect. IV).

II. Special Rapporteur's vision and values guiding the mandate

A. Historical overview of the mandate (2008–2020)

4. The first mandate holder, Catarina de Albuquerque, focused on compiling good practices and providing guidance on how to implement the human rights to safe drinking water and sanitation. She aimed to make those human rights tangible and to build bridges between different stakeholders, professions and people. After receiving numerous requests to provide practical guidance on how to implement the human rights to safe drinking water and sanitation, she developed a handbook which clarifies both the content and entitlement of the human rights to water and sanitation and steps for realizing them.⁴

5. The second mandate holder, Léo Heller, prioritized efforts to translate existing legal principles and human rights norms into public policies and implementation mechanisms that contribute to the realization of the human rights to water and sanitation.⁵ The outcome of his efforts includes 12 thematic reports that highlight the human rights-based approach to various issues relating to access to water and sanitation. In his 2020 report to the Human Rights Council, in the light of the observations made in his previous thematic reports, he compiled examples of progress identified in realizing the human rights to water and sanitation since 2010. The progress is analysed through a three-dimensional framework: human rights as a driver, as a policy tool and as a people-centric approach.⁶

¹ See www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/Partnering-with-other-organizations.aspx.

² See <https://docs.google.com/forms/d/e/1FAIpQLSey3JpxY8HgCbS9bSps1O-69TPpWxCqsPfDgPhCyeHcVMaV5w/viewform>.

³ See www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/MandatePlanningReportWater.aspx.

⁴ See www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/Handbook.aspx.

⁵ A/HRC/30/39/Add.1, para. 4.

⁶ A/HRC/45/11.

6. Thanks to the work accomplished since 2008, the content of the human rights to water and sanitation and their normative projection are clear. However, in the view of the Special Rapporteur there is still a long way to go in terms of their effective implementation. Such implementation ranges from the desirable constitutional recognition of the human rights to water and sanitation to budgetary commitments, legislation on water that promotes accountability and both a sustainable and a human rights-based approach to water management, coupled with the necessary public policies in that regard.

B. Special Rapporteur's vision: a socio-environmental approach to the human rights to safe drinking water and sanitation

7. Building on the work of his two predecessors, the current mandate holder aims to clarify and develop two key elements that are, in his view, fundamental to furthering the effective realization of the human rights to safe drinking water and sanitation: the restoration of aquatic ecosystems and democratic water governance.

8. First, based on the coherence of the sustainability paradigm, it is necessary to develop an ecosystem approach that requires integrated management of the different uses and functions of water. If sustainable ecosystem management is not ensured, all uses, particularly the services on which the human rights to safe drinking water and sanitation depend, will be threatened. The challenge of achieving the effective fulfilment of those human rights, especially for those living in situations of poverty and vulnerability, is therefore strongly linked to that of restoring the health and sustainability of the aquatic ecosystems on which those populations depend.

9. Second, the Special Rapporteur aims to clarify the steps that need to be taken to promote democratic water governance, taking a sustainable and human rights-based approach in different contexts including, but not limited to, in urban and rural areas and in areas inhabited by indigenous peoples. The effective fulfilment of the human rights to safe drinking water and sanitation is a democratic challenge that requires the involvement and effective participation of everyone in the management of water, a public good that is essential for life, leaving no one behind or on the sidelines.

10. In addition, for the Special Rapporteur, water is a common good that has a public character owing to its essential functions for ecosystems and social well-being in today's complex society. Therefore, the State must ensure that water continues to fulfil those functions under democratic and participatory management. From that approach, the Special Rapporteur echoes the statement made by the Committee on Economic, Social and Cultural Rights in its general comment No. 15 (2002), that water is a public good fundamental for life and health (para. 1). However, in the case of indigenous peoples and rural communities that keep community management of water alive, it may remain in the hands of those communities and the State should empower them in its management, including by providing them with the necessary support for the protection of water and associated ecosystems.

11. Furthermore, the Special Rapporteur is concerned about the conceptual and practical development of the human right to sanitation: (a) in impoverished rural areas, where it remains a major global challenge; (b) with regard to hygiene requirements, including from a gender perspective, bearing in mind the menstrual health of women and girls, as a substantial part of that human right for half of the population (see General Assembly resolution 70/169); and (c) with regard to the sanitation of discharges and off-grid sanitation systems, protecting public health, healthy ecosystems and closing a virtuous circle between the human rights to both safe drinking water and sanitation.

C. Functions and values of water: ethical reflections on water management priorities

12. Taking as the starting point the need to ensure the sustainability of aquatic ecosystems, the Special Rapporteur has reflected on the different ethical ranges in which the different uses and values of water, once extracted from nature, should be placed in order to establish the corresponding priorities. If one tries to compare, for example, the value of the water used to

fill a swimming pool with the value of the water needed to satisfy the vital minimum that any human being needs in order to live a dignified life, as a human right, one will quickly come to the conclusion that those values are not even comparable, simply because they are in different ethical ranges. The Special Rapporteur does not contend that those ranges should constitute legal norms of their own, but that discussions on those ethical values should take place and be considered when establishing legal standards. The clarification of those ethical ranges makes it possible to understand and integrate the priority of the human rights to safe drinking water and sanitation in the overall context of water management.

13. Indeed, although priority attention is generally given to demands for economic activities, the most important functions and values of water are not even substitutable or exchangeable for money. In its resolutions 64/292 and 70/169, the General Assembly recognized drinking water and sanitation as human rights; it is necessary to think of the value of water for public health and social cohesion; of the landscape and identity values linked to rivers and lakes; of the social, aesthetic, recreational and symbolic values that water has in different countries, cultures and world views; and of the functions of water in nature, sustaining biodiversity and projecting ecosystem services of vital importance for current society and future generations. Those are values that cannot even be consistently substituted by money and, therefore, cannot be adequately recognized and managed by the logic of the market. That does not detract from the value and importance of economic uses of water, but requires that such uses be integrated into a management context in which the essential priority is to support life and people's health and dignity, that is, the fulfilment of the human rights to safe drinking water and sanitation.

14. The Special Rapporteur proposes the following ethical categories and priorities, which should be at the centre of discussion and consideration when States implement the human rights to water and sanitation:

(a) Water for life, as the minimum amount to guarantee the drinking water and sanitation services necessary for a dignified life, as human rights; water to produce the food that communities in vulnerable situations need, linked to the human right to food; the flows and the water quality necessary to guarantee the sustainability of aquatic ecosystems (ecological flow regime), linked to what the Special Rapporteur believes should be recognized as the human right to a healthy environment; and the rights of indigenous peoples over their waters and territories under the integrative approach of ancestral world views. In short, uses, functions and values linked to human rights must be guaranteed with the highest level of priority;

(b) Water for uses of public interest, at a second level of priority, in functions, services and activities that are of general interest to society; and uses that are generally not valued or are undervalued by the market. For example, in the United States of America, the National Wild and Scenic Rivers System was created by Congress in 1968 to preserve certain rivers with outstanding natural, cultural and recreational values in free-flowing conditions for the enjoyment of present and future generations.⁷ According to the law, therefore, the water of those rivers has an environmental and heritage function that is considered to be in the general interest and is prioritized over, for example, any productive use, however profitable it may be;

(c) Water for economic development in productive activities that generate economic benefits, but are not strictly necessary to sustain human life or satisfy human rights, as would be the case of water needed by communities in vulnerable situations to produce their own food, as a human right to food. Water use in such productive activities, which are mainly agricultural and industrial, in fact accounts for 80 to 90 per cent of demand and generates the main pollution risks. Such activities must be managed at a third level of priority, ensuring full cost recovery on the basis of the benefits generated;

(d) Water uses that threaten life, in economic activities that undermine the public health of current or even future generations and environmental sustainability through toxic

⁷ United States of America, Wild and Scenic Rivers Act, Public Law 90-542; 16 U.S.C. 1271 ff.

contamination, for example, as is often the case with open-pit mining or fracking; and activities that are illegitimate and should be outlawed and prohibited.

D. Democratic water and sanitation governance

15. The democratic governance of drinking water and sanitation services, and of water in general, that the Special Rapporteur promotes must ensure environmental sustainability and adopt existing international standards on the human rights to water and sanitation, including the normative content of those rights identified by the Committee on Economic, Social and Cultural Rights in its general comment No. 15 (2002). Within that set of standards, the Special Rapporteur believes it is important to highlight the following principles:

(a) **Participation:** everyone has the right to participate in decision-making, policy development, planning and management relating to water and sanitation services and facilities, to the extent that their human rights may be affected;

(b) **Accountability:** the institutions or entities responsible for water and sanitation management and services, including service operators, must regularly make available information and reports to the public in a clear, easily accessible and transparent manner;

(c) **Non-discrimination and equality:** no one should be discriminated against when accessing water and sanitation. The effective enjoyment of those human rights must be accessible and adapted to the needs of all, with special consideration being given to the needs and requirements of groups in vulnerable situations;

(d) **Empowerment:** people and communities must be enabled to understand their rights to participation both in the drafting of laws and regulations and in the management of drinking water and sanitation services, providing them with the means for such participation to be effective;

(e) **Legal protection:** national laws should effectively guarantee the fulfilment of the human rights to water and sanitation and ensure that those rights are justiciable, in accordance with international human rights standards, and provide for adequate redress, remedy, reparations and compensation in case of violations;

(f) **Sustainability:** water and sanitation services must be of quality, available and accessible to everyone on a permanent basis, without discrimination, both for present and future generations, achieving lasting solutions so that the provision of services today does not compromise human rights in the future. To that end, adequate awareness and education that develops intergenerational responsibility is necessary.

16. Democratic governance of water in general and of water and sanitation services in particular requires a regulatory framework that guarantees the sustainability of the natural water cycle and allows for the integration of the management of water for life, water for uses and services of public interest and water for economic uses under an order of priorities that must be guided by international human rights obligations.

17. In the Special Rapporteur's view, compartmentalizing management and legislation by reserving a marginal corner for human rights is not appropriate. An integrated approach to the various uses and functions of water, in which human rights are at the core and provide the basic principles and criteria for such integrated management and legislation, should be promoted. The governance of aquatic ecosystems and water and sanitation services is a democratic challenge that requires active and jointly responsible participation by the public. In that context, water management for productive activities requires institutions and economic tools that encourage responsible and efficient use of water as a public good, but from the logic of the public good, giving priority to guaranteeing the human rights at stake and promoting the principles of transparency and participation.

18. The Special Rapporteur intends to work throughout his mandate on addressing that democratic challenge, specifying principles, management criteria and objectives to be developed from the lessons learned from good practices, experiences and social mobilizations in defence of the human rights to safe drinking water and sanitation, in different socioeconomic, cultural and territorial environments.

III. Current state of play: the Special Rapporteur's reflections

A. Global water crisis on the water planet

19. Humanity faces, among others, a crisis that is as tragic as it is paradoxical: the global water crisis on the water planet, the blue planet. The facts that 2.2 billion people do not have guaranteed access to safe drinking water, 4.2 billion people live without access to a basic sanitation service, almost 673 million practise open defecation⁸ and that, as a consequence, there are around 2 million deaths per year, along with many other arguments, justify the characterization of the situation as a global water crisis.⁹ It is a global water crisis that is generating a growing wave of socio-environmental conflicts around the world over the management of water and aquatic ecosystems, conflicts carried out by those who are the first to suffer from the crisis on its various fronts.

20. Complementing the characterization with reference to the water planet could be controversial in view of the argument that most of the water in the world is not fresh, but salt water. Thus, the argument of scarcity tends to emerge as the key to the diagnosis. Undoubtedly, there are water scarcity problems in many regions of the world, especially in desert and semi-arid regions severely affected by climate change, and priority attention must be given to people suffering from water scarcity. However, strictly speaking, most of those 2.2 billion people are not thirsty people living in waterless environments, but either impoverished people who lack access to drinking water for their basic needs, while the available drinking water is served to those who can afford it, or impoverished people living next to polluted rivers, lakes or aquifers.

21. Therefore, the Special Rapporteur understands that the root causes of the global water crisis lie at the confluence of two major structural flaws in the current development model:

- (a) The unsustainability of the aquatic ecosystems, which degrades the quality of its flows, turning water from being the key to life into a terrible vector of disease and death;
- (b) The poverty, inequality and discrimination under the prevailing socioeconomic order.

22. To make matters worse, there are currently three factors that are directly and indirectly aggravating and intensifying the global water crisis: the commodification and financialization of water, climate change and recently, the COVID-19 pandemic, which has deepened inequalities and extended poverty.¹⁰

23. Regarding the commodification and financialization of water, the Special Rapporteur is concerned that the prevailing neoliberal vision tends to consider water as a simple economic resource, useful and scarce, to be managed as a commodity. That approach opens up business opportunities in the privatization of water and sanitation services, in the sale and purchase of water rights or even in the management of water as a financial asset based on speculative strategies. By applying that vision, people become mere customers, which increases the vulnerability of those 2.2 billion impoverished people by turning them into poor customers who find it very difficult to pay. In short, that vision, far from solving the global water crisis, actually aggravates it by making those living in poverty more vulnerable, weakening compliance with human rights and seriously degrading democratic water governance.

24. With regard to climate change, the serious problems of unsustainability currently affecting a large part of the world's aquatic ecosystems could worsen to the point of collapse, with unprecedented socioeconomic consequences. The accelerated change in the rainfall regime threatens to break down agricultural economies that are unable to adapt in time and

⁸ United Nations Children's Fund and World Health Organization, *Progress on household drinking water, sanitation and hygiene 2000–2017: Special focus on inequalities* (New York, 2019).

⁹ UN-Water, "Summary progress update 2021: SDG 6 – water and sanitation for all", March 2021, pp. 7 and 13.

¹⁰ World Bank, *Poverty and Shared Prosperity 2020: Reversals of Fortune* (Washington, D.C., 2020), p. 5.

even puts the habitability of entire regions at risk. All of that provides a glimpse of the mass migrations to come, with the corresponding increase in the number of people who experience serious problems accessing drinking water and sanitation.

25. As for the COVID-19 pandemic, the fact that it is disproportionately affecting the most impoverished and marginalized populations is deepening the inequality, marginalization and poverty that fuel the global water crisis.

B. Water scarcity

26. Water is extremely abundant on planet Earth. However, 97.5 per cent is salt water and only 2.5 per cent is fresh water, mostly stored as perpetual ice at the poles or on mountain tops. Around 0.5 per cent of the total volume is available fresh water, circulating through rivers, lakes and aquifers.¹¹

27. In the Special Rapporteur's opinion, it is simplistic to argue that freshwater scarcity is at the heart of the global water crisis. If that approach were taken, one should also consider the atmosphere to be scarce, as it is not able to digest the emission of greenhouse gases without altering the climate, and even the planet to be insufficient.

28. However, that type of diagnosis exists and often leads, on the one hand, to proposing new hydraulic megaprojects and intensifying the exploitation of rivers and aquifers, which would put additional and increased pressures on ecosystems and accelerate their unsustainability crisis. It also leads, on the other hand, to justifying the treatment of water as a simple, useful and scarce economic good. Such an approach constitutes, in the Special Rapporteur's opinion, a serious and dangerous mistake.

29. In any case, the aim of the present report is not to analyse scarcity problems in general, but to identify the causes of the global water crisis from the perspective of the human rights that are at stake. From the human rights perspective, the key reference point is the 2.2 billion people who do not have guaranteed access to drinking water and the 4.2 billion who lack sanitation. The amount of water needed per person to satisfy those human rights, while depending on the climate and culture of each region, is in fact a minimal amount. Taking the reference of 50 litres of safe drinking water per person per day estimated by the World Health Organization in a scenario in which water is delivered fewer than 100 metres from the home, according to the Special Rapporteur's estimate, the total required would be about 3 per cent of the water that is currently taken on average from nature for people's needs and economic activities. No river will dry up if, in the future, humanity takes only 3 per cent of the water from it.

30. Therefore, from a human rights perspective, scarcity is not the key focus of the global water crisis, but rather a problem of priorities. In fact, looking at multiple historical examples of countries that long ago guaranteed safe drinking water for their entire population, when they could not even get water to people's homes, it was a matter of priority: first, the public fountain, providing drinkable and free water in the town or neighbourhood square, even before paving roads or lighting the streets. With regard to the availability of water, and of quality water, the highest priority over other uses, both in the necessary quantity and in quality, should be allocated to domestic supply and therefore to guaranteeing the human rights to safe drinking water and sanitation.

31. Undoubtedly, there are scarcity problems in deserts and semi-arid territories where climate change could even threaten habitability. In those cases, the water necessary for the survival of communities is often not only that needed for fulfilling the human rights to water and sanitation, but also for livestock and subsistence farming, which is also, in effect, water for life.

¹¹ See www.worldatlas.com/articles/what-percentage-of-the-earth-s-water-is-drinkable.html.

C. Two major structural flaws

1. Inequality, discrimination and poverty

32. As stated above, most of the 2.2 billion people who do not have guaranteed access to safe drinking water are impoverished. In order to understand what that means, it is necessary to clarify what is meant by poverty.

33. In today's urban society, in which people have to buy everything they need, having a low income that does not allow access to what is necessary for a decent life undoubtedly implies poverty. According to the World Bank, in 2017, one tenth of the world's population, around 689 million individuals, had an income of less than US\$ 1.9 per day.¹² Although income is only one of the dimensions that should be taken into consideration, those estimates hint at the magnitude of global poverty.

34. Nevertheless, poverty is much more complex and must be understood not only as a lack of income. It is closely linked to a lack of education, water and sanitation, health, housing, energy, work and opportunities for a dignified life, as well as to marginalization and inequality arising from unequal power relations. In particular, discrimination against women and girls in many communities disproportionately affects the level of poverty in which they live and their access to safe drinking water and sanitation, including necessary menstrual hygiene. In addition, women and girls are often still the ones who carry the burden of bringing water home, which keeps them out of school or paid jobs, thus feeding the cycle of poverty.

35. The non-fulfilment of human rights such as the rights to adequate housing, health, education, food, water and sanitation, which are in fact interrelated, is perhaps the clearest expression of extreme poverty. Of them all, it is perhaps the breach of the right to sanitation that triggers the non-compliance of all the others. For that reason, dedicating attention and effort not only to the human right to water, but also to sanitation, which is often kept in the shadows, is key in the fight against poverty.

36. In rural areas and particularly for indigenous peoples, whose patterns of life are more closely linked to nature, territory and community values, most of the necessities for a dignified life are not bought, but provided by nature or the community. A healthy river is the guarantee of abundant drinking water and even food, providing for irrigation to grow crops and for fishing. Problems emerge when large extractive ventures, hydraulic megaprojects, deforestation or large agribusiness break the sustainability of ecosystems and, in particular, of the rivers on which those communities depend. In such cases, poverty arises from discrimination towards those communities. Rarely do large dams flood wealthy, influential populations. Often such projects affect indigenous peoples or peasants who are discriminated against and victimized by the alleged development of the projects, which plunge into poverty and destitution those who up until then had lived with dignity, despite having little income.

37. In urban settings, water supply and sewage networks often do not reach the large slums or informal settlements where the poorest families live. Despite having negligible incomes, they end up buying the water they need to live from vendors with tanker trucks, with no guarantee of drinkability and paying much more than the cost of water for wealthy families in the neighbourhoods reached by the supply network. It is estimated that they pay between 10 and 20 times more than their more affluent neighbours.¹³ The fact that those families do not have drinking water does not, strictly speaking, go hand in hand with their inability to pay; in fact they do pay, with inordinate effort and at a high price. The key distinction is the marginalization of impoverished neighbourhoods as opposed to wealthy ones that are connected to water and sewage networks. Inequality and discrimination thus become triggers of poverty.

38. In many developing countries, the fact that the urban water supply is not drinkable is assumed to be normal or unavoidable. In that context, those with sufficient income consume

¹² See www.worldbank.org/en/topic/measuringpoverty.

¹³ United Nations Educational, Scientific and Cultural Organization World Water Assessment Programme, *The United Nations World Water Development Report 2019: Leaving No One Behind* (Paris, 2019), p. 97.

bottled water, even if it costs around US\$ 1,000 per 1,000 litres, while the poorest end up assuming the risks involved in drinking tap water. From the experience of the Special Rapporteur, those urban networks often have leaks of the order of 50 per cent and even more, so the way to save on leaks is to cut off the water in different neighbourhoods and districts in turn. That is indeed a very important saving, but it necessarily involves supplying non-drinkable water, as massive contaminant intrusion occurs through the same leakage points when there is no water circulating in the network and therefore no pressure in the pipes.

39. The fact that water is not safe to drink is sometimes due to toxic pollutants. Unfortunately, the toxic contamination of rivers and aquifers by mining and industrial discharges or even by diffuse pollution from agriculture is growing daily. Heavy metals, pesticides and other toxins end up poisoning millions of people little by little through urban water networks, even if the water is chlorinated. Since adequate public information is often not accessible and the effects on health are not immediate, the most impoverished often consume that water and suffer disproportionately from negative health impacts in the medium and long term, aggravating their situation in poverty.

40. In one way or another, entire countries, cities and even large capitals consider the fact that their most impoverished populations end up drinking unsafe water on a daily basis with the corresponding consequences on health in the short, medium or long term to be normal.

41. One of the benchmarks of poverty in both developing and developed countries is water poverty that arises in the form of water disconnections to poor families due to non-payment. Such disconnections, in the Special Rapporteur's view, should be considered a violation of their human rights to water and sanitation.

2. Unsustainability in aquatic ecosystems

42. The health of people, especially those living in poverty, is closely related to the health and ecological status of the rivers or aquifers from which they receive water. Therefore the health of those ecosystems has an impact on the enjoyment of the human rights to water and sanitation. Degrading or breaking the sustainability of rivers, wetlands and aquifers also endangers other human rights by affecting fishing and the livelihoods of riverine communities. It can also seriously affect the sustainability of the deltas and beaches on which many people's lives depend.

43. The value of biodiversity is often dismissed as alien to the interests of humanity. However, beyond its intrinsic value, biodiversity is the best indicator of the health and functionality of the ecosystems that purify and naturally regulate, on which the drinking water of riparian communities depends. In fact, European Union legislation links the necessary quality of drinking water to the health and state of the ecosystem that supplies the service.¹⁴

44. The deterioration of the biodiversity of freshwater ecosystems is alarming: of the 3,471 mammal, bird, amphibian, reptile and fish populations assessed, there has been an average decline of 84 per cent since 1970.¹⁵ Millions of kilometres of river ecosystems have been destroyed or severely affected. Nearly 90 per cent of the wetlands that existed in the eighteenth century have disappeared. In addition to supporting 40 per cent of biodiversity, wetlands provide invaluable regulation and purification functions, and even more so in climate change scenarios.

45. Some 80 per cent of global wastewater goes untreated, containing everything from human waste to highly toxic discharges.¹⁶ As explained above, untreated urban discharges, together with toxic pollution from mining, industry and even agriculture not only damage the health of ecosystems but also the public health of those living downstream.¹⁷ Nitrate pollution in rivers and aquifers is also on the rise, as is pollution from industrial livestock waste and excessive fertilization in agriculture, which ends up in drinking water, with serious impacts

¹⁴ Directive 2000/60/EC, arts. 1 and 4, and Directive (EU) 2020/2184, recitals 15–18 and arts. 7–8.

¹⁵ World Wide Fund for Nature, *Living Plant Report 2020: Bending the curve of biodiversity loss* (Gland, Switzerland, 2020), p. 24.

¹⁶ See www.unep.org/explore-topics/water/what-we-do/tackling-global-water-pollution.

¹⁷ United Nations Environment Programme, *A Snapshot of the World's Water Quality: Towards a global assessment* (Nairobi, 2016).

on public health, especially children's health. Furthermore, even in the absence of concrete information on the scope that the so-called emerging pollutants, including drugs, microplastics and hormones, may have, their impact on biodiversity and human health is becoming so serious that it calls into question the drinkability of many water supplies.

46. The abusive extraction of water flows is another key factor in the crisis of unsustainability of aquatic ecosystems. The abusive exploitation of many aquifers not only ruins the base flows of wetlands and rivers, but also the storage capacities and natural regulation of the water cycle, putting even drinking water at risk in cycles of drought that climate change tends to make worse.

47. Massive deforestation and the expansion of the agricultural and livestock frontier is another key factor in the crisis of unsustainability of many inland aquatic ecosystems. It is also being accelerated by climate change, to the extent that erosion processes are favoured, run-off increases and infiltration in the aquifers that regulate river flows is reduced. That puts the supply of drinking water at risk, especially in rural and indigenous communities.

48. The construction of more than 45,000 large dams¹⁸ and hundreds of thousands of kilometres of canals, pumping stations and turbines and millions of kilometres of pressurized networks have made it possible to supply cities and towns with water, irrigate almost 300 million hectares of land, produce almost 20 per cent of the enormous current electricity demand and supply the requirements of huge industrial development and services throughout the past century. No one doubts those benefits and developments in the general welfare of humanity. However, the fact that humanity has moved beyond the limits of the environmental sustainability of aquatic ecosystems calls for a shift from the old paradigm of dominating nature to the new paradigm of sustainability; from resource-based approaches to ecosystem-based approaches; from supply-side strategies to new demand management and conservation strategies; from productivism to sustainable economic rationality; from technocratic and often authoritarian approaches to new participatory and democratic governance. In short, a hydrological transition is required in order to face the challenges of the twenty-first century.

49. Restoring the sustainability and health of rivers, lakes, wetlands and aquifers and their functionality is essential to addressing the global water crisis, especially in the context of ongoing climate change. It is urgent to put an end to the abusive exploitation of many aquifers, which are the water lungs of nature, so that they also become strategic reserves for droughts. Recovering wetlands means having their regenerative and purifying functions; while preserving and improving vegetation cover prevents erosion and facilitates infiltration into aquifers. However, in order to recover the proper functioning of the natural engineering that structures the hydrological cycle on islands and continents, it is necessary to put an end to pollution, clean up the returns, eradicate toxic discharges and prevent new emerging pollutants.

D. Three factors that are deepening the global water crisis

1. Climate change, risks and impacts

50. Today there is general consensus that the use of fossil fuels is the dominant factor in the generation of climate change, which leads to mitigation strategies being dominated by the necessary energy transition towards renewable energies. However, the main socioeconomic impacts of climate change are generated around the water vector, which should lead to adaptation strategies being dominated by the above-mentioned hydrological transition based on the sustainability paradigm.

51. Contrary to what can sometimes be heard, in global terms, climate change does not and will not mean lower average rainfall. As temperatures increase, the amount of water evaporated in the seas rises and therefore also the amount of precipitation. On average, the water cycle will not regenerate less fresh water, quite the opposite. The problems stem from the accelerated changes in rainfall patterns in each territory and the increase in plant

¹⁸ "Dams and development: a new framework for decision-making – overview of the report by the World Commission on Dams", December 2001.

evapotranspiration due to higher temperatures, with a consequent reduction in available flows. Those changes can be summarized as follows:

- (a) Increase in average rainfall in some places, generally where it traditionally rains more, and reduction in others, where it usually rains less;
- (b) Increase in rainfall variability, compounding the risks of extreme events, with longer and more frequent drought cycles, as well as more intense and frequent storms, hurricanes and cyclones;
- (c) Increase in average temperature and heatwaves in the summer period, with the consequent drastic increase in plant evapotranspiration and the corresponding decrease in fluvial flows and infiltration to aquifers;
- (d) Reduction of snow and glacial masses in the headwaters of rivers and therefore reduction of their flow-regulating function;
- (e) Acceleration and expansion of desertification of territories under increasing risk of fires and groundwater abusive exploitation, leading to the exhaustion of springs;
- (f) Fusion of polar masses due to global warming and rising sea levels.

52. The foreseeable impacts of those phenomena can be summarized as follows:

- (a) The fast change in precipitation patterns mainly affects the state and functioning of aquatic ecosystems that cannot adapt quickly enough, which can lead to collapses affecting the quality and quantity of drinking water supply;
- (b) In many territories where aquatic ecosystems are currently subjected to abusive levels of exploitation, river flows and the natural replenishment of underground aquifers by infiltration will tend to drastically decrease, worsening the unsustainability of ecosystems and water stress, with repercussions for drinking water supply;
- (c) With increasing rainfall variability and the growing risk of heavy rainfall, soil erosion will accelerate, especially if vegetation cover continues to degrade, surface run-off and flood risk will increase, while infiltration into aquifers will be reduced, sediment flow and clogging of reservoirs will accelerate, leading to reduced water reserves and endangering some drinking water supplies;
- (d) Deforestation in humid areas such as the Amazon region impoverishes soils and promotes soil erosion, while causing rainfall recession over large areas;
- (e) Flood risks can multiply in coastal cities when river flooding is combined with storms and tidal surges, aggravated by rising sea levels which, in turn, progressively salinize aquifers, degrading the quality of the most affordable drinking water for the poorest;
- (f) As a result of ruined agriculture and livestock in impoverished rural areas, which have little adaptation capacity, among other causes owing to climate change, massive migration will be generated, in the order of 200 million people by 2050.¹⁹

53. The devastating socioeconomic impacts of changes in the water cycle call for urgent adaptation strategies in order to increase the resilience of aquatic ecosystems to extreme events and to increase social resilience, on the basis of the fulfilment of the human rights to safe drinking water and sanitation, especially of the most at-risk population groups, which are always those living in poverty and/or marginalization.

54. First, to increase environmental resilience, it is necessary to restore the good ecological state of ecosystems in order to recover their natural capacity to buffer the impacts of droughts and floods, as well as developing appropriate forestry policies that minimize fire risks. Second, developing social resilience requires the promotion of preventive measures, rigorously applying the precautionary principle in hydrological, territorial and urban planning. It also requires awareness-raising, education and promotion of the participation of the population in prevention and emergency plans, with gender mainstreaming and ensuring

¹⁹ International Organization for Migration (IOM), *Migration and Climate Change*, IOM Migration Research Series, No. 31 (Geneva, 2008), p. 11.

compliance with human rights, mainly among those living in situations of greater vulnerability.

55. It is important to bear in mind that problems regarding the human rights to drinking water and sanitation do not only occur in cycles of drought, but also with floods. When rivers overflow, many impoverished neighbourhoods are flooded, water and sanitation services are disrupted and even so-called black flooding from the sewage system occurs, inside homes. Moreover, droughts not only put drinking water supplies at risk due to shortages, but also to a large extent due to increased concentrations of pollutants as flows decrease with the same discharges.

2. COVID-19 pandemic, risks and impacts

56. The COVID-19 pandemic has exposed the vulnerability of all people and forced the world to undertake a collective response. The option of shielding borders to restrict risks to remote countries, as was achieved with other diseases, did not work with COVID-19; the virus travelled by plane, even in business class. Although vulnerability is greatest in impoverished populations, particularly among women and girls, as well as other marginalized groups, no one will be out of harm's way until everyone is under cover.

57. For the first time, the motto that governs the Sustainable Development Goals, "leave no one behind", is felt and imposed as inescapable. The COVID-19 pandemic has highlighted the role of adequate hygiene with soap and water to prevent infection. What had been evidence argued a thousand times – the role of water and sanitation services as a basic tenet of public health – has become an urgent and unavoidable tool that should not leave anyone behind, to ensure effectiveness in fighting the virus. That has led many Governments to ban disconnections of water supply service for non-payment as an emergency measure in the face of the pandemic.

58. General consensus is growing on the need to strengthen public health systems as non-profit public efforts that seek to protect the health of all those who have been left behind. There is also growing evidence of the need to integrate, under the consensus, the management of water and sanitation services as a cornerstone of public health, prioritizing the corresponding public economic efforts to empower local and subnational governments, as well as community authorities, in their competencies in water and sanitation services and facilities and the corresponding obligation to guarantee the human rights to safe drinking water and sanitation.

59. In any case, beyond that positive shift in public awareness, the pandemic is deepening and expanding inequality and poverty which, it must not be forgotten, is the first structural flaw causing the global water crisis, by affecting more intensely those who live in the worst conditions of habitability and hygiene. The approach based on maximizing benefits that dominates the development and application of vaccines increases the problems of inequity, exacerbates the impact of the pandemic among the poorest and increases the risks of virus mutation. In that context, the challenge focuses on maximizing social resilience in the face of the risks arising from the pandemic. Vaccines maximize individual and collective resilience to disease, but they must be guaranteed for everyone, including the poorest, prioritizing the principle of the general interest over the right to excessive profits of large pharmaceutical corporations. In any case, the effective fulfilment of the human rights to safe drinking water and sanitation, with their projection on hygiene, has been and will be key to strengthening social resilience and preventing not only severe acute respiratory syndrome coronavirus 2 and its mutations, but other possible pandemics.

60. Once again, with regard to public health risks, there is a need to integrate environmental and social factors, with the consequent need to integrate social resilience and environmental resilience. It is necessary to critically evaluate the development of massive and intensive industrial livestock and to develop strategies for the protection of biodiversity as part of adaptation and mitigation strategies regarding public health.

3. Challenge of democratic water governance

61. Humankind's ancestors around the world walked until they found a river, a lake or a source with enough water to guarantee a dignified life and there they settled. Traditionally,

water has been considered a common good that must be available to all as an essential and irreplaceable good for life. With the development of social complexity, community water management, still alive in many rural areas, became a public competence in the hands of States through concession systems as a way of preserving the public domain of water and the principle of general interest regarding its use, and water came to be considered a public good.

62. The development of large hydraulic works throughout the twentieth century, with massive public investments, long repayment terms and even substantial subsidies, reinforced the role of States and the consideration of water as a public good. Logically, the enormous financial expense from the public purse, using everyone's taxes, created the need to justify the use of the available water from a management approach based on the general interest of society.

63. Unfortunately, over the course of the twentieth century, the power of large economic interests ended up hijacking the principle of the general interest. At the same time, enormous hydraulic development, leading to massive flow extraction and systematic discharges – industrial, urban and mining – together with growing agricultural diffuse pollution broke the sustainability of aquatic ecosystems. The end result is the global water crisis, which makes it imperative to rethink the meaning that the concept of general interest should have in the twenty-first century, in the management of water, a public good that is as essential for life as it is irreplaceable.

64. Over the past few decades, the prevailing neoliberal vision has been proposing that water be considered as a commodity to be managed under the logic of the free market. Adopting that approach, privatized management of water and sanitation services has been promoted and water markets have been created, leading to an increase in de facto private appropriation of water by those holding concessions for its use. Recently, under the vision of water management as a business space, water rights have come to be managed as financial assets in the Wall Street futures markets under the logic of speculative strategies.

65. In the Special Rapporteur's view, water must continue to be considered as a public good (Committee on Economic, Social and Cultural Rights, general comment No. 15 (2002), para. 1), preserving the values of participation and common responsibility treasured by community-based management. The global water crisis must be met by promoting democratic water governance that ensures the sustainability of ecosystems and develops a human rights-based approach to water management under legal rules that regulate the ethical priorities outlined above.

66. Managing water according to purely market logic, through privatization, commodification and even financialization strategies, makes those living in poverty more vulnerable, jeopardizes their human rights to safe drinking water and sanitation and undermines the sustainability of ecosystems, contradicting both the consideration of water as a public good and the logic of the general interest.

67. In short, to face the global water crisis with those 2.2 billion people without guaranteed drinking water and 4.2 billion without sanitation, it is necessary to build and strengthen democratic governance practices. Such practices are followed by the tens of thousands of community aqueduct associations that manage water and sanitation for millions of people in impoverished rural areas of Latin America, the Eaux de Paris company, an example of transparency and management open to public participation in a large urban system, and the citizen debate initiative in Mexico to draft a general water law taking a human rights-based approach to water management, in the wake of the decision to recognize the human rights to drinking water and sanitation in the Constitution.

IV. Special Rapporteur's first three years as mandate holder (2020–2023)

A. Three key objectives

68. The current critical times mark an epochal change; the global water crisis is just one indication of that. They are times in which painful crises arise, such as the one being experienced today with the COVID-19 pandemic or the one that is beginning with climate change. Such crises offer lessons and announce changes, with the birth pangs of that new world that, as members of social movements say, is possible because it is necessary.

69. In the context of the global water crisis, three challenging objectives will mark the main strands of the Special Rapporteur's work, as explained below.

1. Clarifying ways to promote democratic water and sanitation governance

70. Integrating the management of the multiple uses and functions of water, as a public good – or as part of the commons, where a community-based approach to water and sanitation management is alive and well – and under the aforementioned priorities, is a complex challenge that goes beyond the capacities of the market. Today, democratic water and sanitation governance must enable society to address climate change and the COVID-19 pandemic within the framework of the global water crisis, strengthening environmental and social resilience, activating the gender perspective and paying special attention to those living in extreme poverty.

2. Furthering the realization of the human rights to safe drinking water and sanitation, focusing on restoring the sustainability of aquatic ecosystems

71. The Special Rapporteur insists that it is only by making decisive progress in restoring the health of aquatic ecosystems that the fulfilment of the human rights to safe drinking water and sanitation of people living in poverty can be achieved. Likewise, only by making decisive progress in sanitation and cleaning up discharges will it be possible to restore the health of aquatic ecosystems. The only viable strategy to ensure that the 2.2 billion impoverished people currently lacking safe drinking water and the 4.2 billion currently lacking sanitation have them at affordable costs is to make peace with the rivers, lakes, wetlands and aquifers on which those people depend for their livelihoods. The Special Rapporteur's second objective therefore focuses on clarifying the link between those human rights and the sustainability of aquatic ecosystems and on promoting strategies that link the two challenges.

3. Promoting water as a key to collaboration and peace

72. In many cases, local conflicts are caused by large-scale projects – generally of an extractive nature – which destroy or seriously affect the ecosystems and territories on which the communities living there depend, violating their human rights. The Special Rapporteur, based on his experience in such conflicts, insists on the importance of listening to and opening up space for women as a key to non-violent conflict resolution. Clearly, respect for the human rights of those communities and the security of their leaders, who are currently under threat, is essential. That said, water disputes between regions or countries fuel conflicts that can lead to wars. However, water offers reasons and arguments for agreement and collaboration, if an ecosystem approach is taken. If it is a matter of managing a river or a river basin in all its richness and complexity, rather than competing for water as a resource, the need for collaboration will emerge. Of course, the benefits and efforts to be made upstream and downstream are often not symmetrical, and dialogue and negotiation are therefore necessary. Nevertheless, in the end, collaboration leads to benefits for all. It will be important to adopt a human rights-based approach, as a reference to the legal obligations recognized by all, and to open spaces for women's participation, following Security Council resolution 1325 (2000) on women and peace and security.

B. Specific plans

1. Scheduled thematic reports

73. In 2021, the Special Rapporteur is submitting to the Human Rights Council the present thematic report on the global water crisis on the water planet, the blue planet, focusing on his diagnosis and workplan. The Special Rapporteur's aim is to characterize the context in which he plans to develop the mandate, identifying the root causes of the crisis and the phenomena that aggravate it, in order to define his objectives and the major tenets of his work as mandate holder.

74. In 2021, the Special Rapporteur will submit to the General Assembly his thematic report on the risks to and impacts on the human rights to safe drinking water and sanitation of the commodification and financialization of water. His first report to the General Assembly will address the first tenet of the work mentioned above: promoting democratic water governance as a key to developing the human rights to safe drinking water and sanitation. Moreover, as is the case in the present report, the Special Rapporteur will build on the work of the former Special Rapporteur, contained in his final report to the General Assembly in 2020.²⁰ As explained in the present report, one of the factors that is aggravating the global water crisis is the progressive commodification and financialization of water, which transforms citizens into customers and destroys the democratic governance of water, a public good that is essential to life.

75. In 2022, the Special Rapporteur will submit to the Human Rights Council a thematic report on indigenous peoples' human rights to safe drinking water and sanitation, assessing the current state of affairs and examining lessons learned from ancestral cultures. In his second year as mandate holder, the Special Rapporteur will focus on population groups that are in situations of vulnerability and poverty – the second structural flaw that is generating the global water crisis – starting with indigenous peoples. Sanitation, as a major persistent challenge in rural areas, will receive priority attention. Nevertheless, at the same time, the Special Rapporteur intends to address both the objective of promoting democratic water governance and linking human rights and ecosystem health, highlighting indigenous peoples' traditions of community management and their respect for rivers, lakes and springs, based on the ancestral world views they keep alive. Attention will be paid to the impact of extractivist strategies on the human rights to safe drinking water and sanitation. Gender mainstreaming will be a significant feature of the report, with a focus on the evolving role of women in community water and sanitation management.

76. In 2022, the Special Rapporteur will submit to the General Assembly a thematic report on the human rights to safe drinking water and sanitation of people in impoverished rural areas. His second report in 2022 will focus on peasant communities subjected to processes of marginalization that lead to vulnerability and poverty. As in the case of his report on indigenous peoples, the report on peasant communities will assess the situation of the human rights to safe drinking water and sanitation, as well as the impact of megaprojects and extractivist strategies. It will also seek to identify and highlight the contributions of community management in the democratic governance of water in rural areas. Particular attention will be paid to the challenge of sanitation for the rural poor, specifically the neglected issue of open defecation, which disproportionately affects rural areas, and the role of women in the vital area of sanitation, both at the family and community levels.

77. In 2023, the Special Rapporteur will submit to the Human Rights Council a thematic report on two converging challenges: fulfilling the human rights of those living in poverty and restoring the health of aquatic ecosystems. The report will focus on the other major structural flaw driving the global water crisis: the collapse of the health and sustainability of aquatic ecosystems. The report will explore, in different territorial and climatic typologies, the extent to which the breakdown of the sustainability of rivers, wetlands and aquifers affects the human rights to safe drinking water and sanitation of those who depend on them. It will also seek to identify concrete measures and strategies, as well as their feasibility, so that populations in situations of vulnerability have access to quality water, based on returning the

²⁰ A/75/208.

rivers and aquifers on which they depend to a healthy state. The human right to sanitation and its projection in the feasible and affordable treatment of wastewater will be one of the key issues to be developed.

78. In 2023, the Special Rapporteur will submit to the General Assembly a thematic report on water as an argument for peace, twinning and cooperation. The report will address local conflicts, generally caused by megaprojects, following on from the 2019 report of the former Special Rapporteur.²¹ The relationship between human rights impacts and the degradation, destruction or pollution of aquatic ecosystems will be analysed, as well as the non-violent approach that communities often develop in contexts of criminalization of protest and repression against leaders and human rights defenders. Regarding interregional and international conflicts, experiences of water conflict resolution will be referenced from the historical tradition of twinning between riparian peoples, whether communities, cities, regions or countries. The main current conflicts will be identified and analysed and criteria and guidelines will be offered to address them from strategies of non-violence and mediation.

2. Building bridges of permanent dialogue

79. People who suffer directly from problems may not be right in everything they say, but they are certainly the ones who know the problems best. Therefore, if one wants to find out about the problems in depth, it is necessary to listen carefully to those who suffer from them directly. That is one of the Special Rapporteur's deep convictions. It is why dialogue with defenders of the human rights to safe drinking water and sanitation has been active since his first day as the mandate holder. Defenders are often involved to the point of putting their lives at risk in the defence of the water, rivers, wetlands and springs on which the life and dignity of their communities depend. The Special Rapporteur is committed to building bridges of permanent dialogue with social networks on three fronts: social movements; municipal and community authorities; and experts, universities and educational centres.

80. From the deep conviction that human rights are the heart of the global democratic governance that the world increasingly needs, the Special Rapporteur wants to address the dual objective of empowering human rights defenders and institutionally strengthening the Human Rights Council, working to build that permanent dialogue. Through the open channel of dialogue, the Special Rapporteur has made himself available each week to anyone who wishes to discuss an issue with him. Through quarterly meetings, he plans to build bridges of permanent dialogue with networks working on the three fronts mentioned above, with a work agenda proposed by the stakeholders.

81. In order to address the issues and objectives outlined above, one of the Special Rapporteur's priorities is to work closely with other special procedure mandate holders, human rights mechanisms and institutions, such as those relating to women, the environment, indigenous peoples, food, housing, extreme poverty, toxic pollution and health, among others.

3. Country visits

82. The two official country visits that must be carried out each year, once the restrictions imposed as a result of the COVID-19 pandemic are lifted, are designed based on the following criteria:

- (a) Prioritizing impoverished countries and regions;
- (b) Prioritizing countries and regions in conflict;
- (c) Balancing between the various continents and regions.

83. Beyond those territorial criteria, the priorities will be:

- (a) Working with water as an argument for peace;
- (b) Empowering women as promoters of the human rights to safe drinking water and sanitation;

²¹ A/74/197.

- (c) Listening to those who suffer from problems.

84. In the face of problems and injustices, denunciation and social mobilization often put Governments on their guard, as they feel criticized. That often makes it difficult to invite the Special Rapporteur to visit the country concerned. The Special Rapporteur, however, understands that his role is to listen to everyone, paying special attention to those who suffer from the problems and making room for what women have to say, in order ultimately to propose solutions. Throughout his life, the Special Rapporteur has had many experiences of dialogue and mediation that have reinforced his conviction that, as a Spanish proverb says, “people understand each other by talking”. There have also been many experiences in water conflicts in which women’s leadership has been fundamental. In short, the aim is to contribute to building fair, effective and lasting solutions.

4. Communications and other letters

85. In 2020, on 19 November, World Toilet Day, the Special Rapporteur reiterated the importance of the continuous availability of water and sanitation and called for States to prohibit water disconnection when households are unable to pay water tariffs. Subsequently, he launched a project entitled “Prohibition of water disconnection: from a social shield to safeguarding human rights”, which maps the situation of each country in relation to water disconnections and measures to prohibit them. Beyond activating that social shield, which is so necessary and urgent to address COVID-19, the Special Rapporteur is convinced that it is essential to transform the urgent need posed by the pandemic into a permanent virtue, ensuring the human rights to water and sanitation at all times and under all circumstances, whether there is a pandemic or not. The Special Rapporteur has mapped the situations in the Latin America and the Caribbean during his first six months as mandate holder. Going forward, he will analyse and map the situation of water disconnections in other regions.

5. Cooperation with international and regional organizations and the Sustainable Development Goals

86. In order to better understand the roles and responsibilities of international and regional organizations in the area of water, sanitation and hygiene services, between January and April 2021, the Special Rapporteur convened bilateral meetings that have opened up various lines of cooperation. He wants to pay special attention to UN-Water, multiplying interviews with its members from the beginning of his mandate, as he considers it essential to enhance the global leadership of UN-Water in the face of the world water crisis and efforts to achieve Sustainable Development Goal 6 and other water-related Sustainable Development Goals, as indeed the leadership of the World Health Organization must also be strengthened in the face of the COVID-19 pandemic and future risks to global public health.
