Workshop on "Equitable Access to water and sanitation"
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Political commitments and international human rights law

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Thank you for inviting me to participate in this workshop.
In the past year, there have been significant developments regarding the human rights to water and sanitation. On 28 July 2010, the UN GA recognized the right to water and sanitation. On 30 September 2010, the UN Human Rights Council further specified that this right is derived from the right to an adequate standard of living. The World Health Assembly further built on these developments, adopting a resolution on 24 May 2011, which called on States to ensure that national health strategies contribute to the realization of these rights.

While water and sanitation had been referred to in various human rights treaties before, these resolutions are the first time that the United Nations has recognized these rights in such an explicit way. These events are the culmination of years of advocacy work by civil society, important developments at the national level in certain countries, and considerable work within the UN system to further the understanding of water and sanitation as human rights.

Why does it matter to recognize these as human rights - what does this change? First let's consider what it does **not** mean to recognize water and sanitation as human rights. One of the most time consuming activities of the Special Rapporteur and Office colleagues working on the rights to water and sanitation is dispelling myths about these rights. For example,

1. "The human rights to water and sanitation require that water and sanitation be provided for free." This is not true. Human rights emphasize that these services should be affordable to everyone. Affordable is not the

same thing as free. For those who cannot afford to access water and sanitation, systems must be in place to assist them. The report under consideration at this meeting emphasizes the importance of affordability, and offers some important perspectives on how to achieve this aspect of the human rigths to water and sanitation.

2. “The human rights to water and sanitation prohibit private sector participation.” This is another misconception. The Special Rapporteur on the human right to safe drinking water and sanitation devoted her 2010 report to this issue precisely because this misunderstanding has created a lot of problems for the human rights discourse to gain traction in the water and sanitation sectors. Human rights are obligations of States, and States must ensure that private sector participation goes towards fulfilling these human rights. This means regulation, it means monitoring. This also means that States cannot turn to the private sector to provide water and sanitation as a way of washing their hands of their human rights obligations. These obligations remain, regardless of whether service delivery is private, public or a combination of the two.

3. “The human rights to water and sanitation require that everyone everywhere has access to a tap and a flush toilet.” This is also untrue. Human rights take account of the fact that different solutions will be appropriate in different circumstances. In fact, human rights even require such adapted solutions because consultation with the concerned community is required to identify the most appropriate solution for that situation.

4. “There is not enough water in the world for the realization of the human right to water and sanitation for everyone.” This is not the case. The human right to water only refers to water for personal and domestic uses. As the people in this room know well, this comprises a very small proportion of overall water use - even in water scarce regions.

5. “Recognizing the rights to water and sanitation means that everyone is entitled to water and sanitation immediately.” This is the final misconception I will mention. The rights to water and sanitation create are obligations, some of which have immediate effect while others call for gradual progress to be achieved. This does not mean that these rights are “merely” goals or aspirational. This means that States are obliged to take concrete steps towards the realization of these rights. The obligation of progressive realization means that every country has work to do, to continually take steps to extend access to those still un-served, and to improve access for those who need it.

So why do human rights matter? The human rights to water and sanitation entitles everyone to water and sanitation which is available, accessible, affordable, acceptable and safe. As mentioned, this obligation must be progressively realized by States to the maximum of available resources. Where domestic resources are insufficient for such efforts, States must turn to international cooperation and assistance.

Human rights require that these efforts be undertaken in a non-discriminatory manner. This means asking important questions like “Who does not have access and why?” -- when we ask this question and dig deep enough to find the real answer, we see that exclusion is often not just an unfortunate accident. It is the product of lack of voice and lack of power, which translates into policies and politics which do not adequately prioritize marginalized groups and perpetuates the deprivations that they suffer, including in the areas of water and sanitation. To address this, human rights requires an explicit focus on those excluded and marginalized.

Human rights further require the opportunity for active and meaningful participation by concerned individuals. This means transparency, and it means access to information. This is also about creating space for all people to influence policies which affect them. That includes people who

live far away, illiterate people, people who speak other languages, people with disabilities, children. Of course, participation is not only an obligation imposed by human rights, it also helps to ensure more sustainable interventions - without it, interventions are more likely to fail.

Another important aspect of human rights is their binding nature - and this is where human rights are very distinct from “good programming.” States have committed themselves to these obligations, and they are required to ensure these human rights. Human rights norms reflect political commitments but go beyond them to create legally binding obligations. When violations take place, and they take place in every country of the world, accountability mechanisms must be in place to provide redress to the victims of such violations. These should include recourse to judicial mechanisms.

But arguably, the most crucial dimension of human rights is its potential to empower people. Water and sanitation, as rights, are no longer matters of charity which a Government can give or take away. They are human rights, which people can claim. States become more accountable, and once people know that they have this right, the entire dynamic changes as they hold the authorities to account.

The discussions scheduled for this workshop, and more broadly within the work of the UNECE/WHO-Euro Protocol on Water and Health, have the potential to support the important developments regarding the human rights to water and sanitation. The good practices highlighted in the report demonstrate that implementing the rights to water and sanitation is possible, and offer valuable lessons to other States seeking to meet their obligations. I hope that the synergies sparked by the Protocol on Water and Health and developments concerning the rights to water and sanitation will continue to flourish, in order to support our shared

objective of ensuring universal access to safe drinking water and sanitation.