NHRI TRAINING ON
WATER GOVERNANCE AND HUMAN RIGHTS

27-29 November 2017
Geneva, Switzerland
Introduction

In 2010, the United Nations General Assembly acknowledged the human right to water and sanitation (HRWS) before recognizing them as two distinct but closely interlinked human rights in 2015. However, those rights are not yet implemented globally. In addition, access to water and sanitation is required to realise many other rights. These rights are also linked to equity issues, such as gender equality and indigenous peoples. Due to these linkages, the successful realisation of many human rights and principles relies on good water governance, which balances the competing water needs of local populations, agriculture and industry.

National Human Rights Institutions (NHRIs), the cornerstone of national human rights-protection mechanisms, dispose constitutional powers to promote and protect human rights. They are in a unique position to play an enhanced role in protecting and promoting water governance-related human rights and thereby contribute to a human rights-based water governance. In addition, they are well placed to play a role in the implementation and monitoring of the water and sanitation related Sustainable Development Goal (SDG 6).

Against this backdrop, WaterLex organised a multi-stakeholder training on Water Governance and Human Rights focusing on the role of NHRIs. This three-day capacity-building activity was organized within the NHRI Water Initiative and took place in fall 2017 in Geneva. It focused on two institutions, offering them a tailored workshop to their national frameworks and situations. For both institutions, this workshop was the kick-off of their respective projects on the human rights to water and sanitation realized with the financial support of the Ministry of Foreign Affairs of Finland, with the aim of helping them with the implementation of those projects.

Objectives of the training

This training sought to:

- strengthen the capacity of NHRIs in their role of promoting and protecting the HRWS and other water governance-related human rights
- provide tailored information to participating institutions taking into account their national realities and regional mechanisms
- support them in their work on the Sustainable Development Goals

Expectations and participants

The training was delivered to representatives from two NHRIs, the Public Defender’s Office of Georgia and the Human Rights Defender’s Office of Armenia. The participants who took part in this training have different backgrounds, mainly law and economy, and worked in different departments within their institutions, from units on education and public services, to staff responsible for international relations and fundraising. As water and sanitation are a new area of work, the training was perceived by the participants as an opportunity to gain key knowledge on those rights to strengthen their work on these rights in their various units and departments.
Module 1: Introduction to water governance and human rights

The first module of the program served to provide a comprehensive foundation on the legal framework of the human rights to water and sanitation as well as introduce the fundamentals of water governance. The significance of water issues across the globe, inclusive of scarcity and risks associated with climate change and non-sustainable use, was established to provide the context for the importance of universal water governance and human rights. The legal framework of the rights to water and sanitation was presented commencing with the evolution of the rights from the implicit interpretation extending from Article 11 (right to an adequate standard of living) and Article 12 (right to the highest attainable standard of physical and mental health) of the Convention on Economic, Social, and Cultural Rights. From there General Comment 15 onwards to the explicit references in various thematic and regional treaties was discussed to demonstrate how the rights to water and sanitation evolved. The normative content and human rights principles of the rights to water and sanitation was reviewed with accompanying examples of good practices of various NHRI’s to show how these institutions have addressed relevant issues.

This module also covered the four dimensions of water governance (political, social, economic, sustainability) and the interrelation of human rights and integrated water resources management. The module concluded with a survey of the interlinkages of the human rights to water with other human rights e.g. the rights to food, work, health and culture, confirming their interdependence as in realising one will necessitate realising the other.

Module 2: Actors

The second module of the programme sought to inform on the main actors involved in water/sanitation services delivery, at national and international levels. The module first discussed issues that might need to be considered to support the fulfilment of the HRWS for different groups of people. Women and gender equality were addressed, highlighting the different challenges that exist in terms of access, but also menstrual hygiene management, and identifying possible areas of intervention, such as the national legal framework. Other groups that might require special attention were further identified, such as people with disabilities, children, who are impacted not only by lack of water and sanitation facilities in schools but also unhealthy environments, refugees, internally displaced people as well as the poor, indigenous peoples and prisoners and detainees, the latter being often overlooked in monitoring access to safe drinking water and sanitation. Examples on how NHRI’s have been working on challenges that those groups might be facing in terms of access were given.
The second module further addressed the role of the State, including its obligations to respect, protect and fulfil the human rights to water and sanitation. The increasing roles of local authorities were highlighted and a part of the module was also dedicated to service providers. It was in particular recalled that an adequate framework must be in place to ensure compliance with the HRWS, whether services are public or private. This lead to the role of the private sector, looking at service provision, but also beyond, such as private industries relying on water resources, or indirectly impacting them. Moving from national to international actors, the mandate of the Special Rapporteur on the Rights to Safe Drinking Water and Sanitation was explained, and the crucial roles of Civil Society Organizations recalled. A specific part of the module discussed NHRIs’ mandates and possible activities in furthering the realisation of the HRWS. The participants also heard about the NHRI Water Initiative which is hosted by the WaterLex International Secretariat and were introduced to existing tools and materials that can support NHRIs in working increasingly on the HRWS within their respective mandates.

Module 3: National frameworks in Georgia and Armenia

During the third module, the participants were divided into two groups according to their respective institutions. In the group on Georgia, the participants discussed the international, regional and national frameworks of relevance to the HRWS. Discussing international human rights mechanisms helped the identification of gaps in terms of reporting on HRWS at international level and raised the possibility of integrating more HRWS-related aspects in the NHRIs’ alternative reports to human rights treaty bodies. The participants also discussed other frameworks, such as the status of ratification of International Labour Conventions in Georgia. Key issues in terms of access to drinking water and sanitation were highlighted by the participating group, namely in educational centres, but also lack of access in certain areas of the country. The participants were prompted to look at water governance issues using a human rights lense. The country is now in the process of adopting a new water law, which should give the opportunity to the NHRI to review it, taking into account the human rights framework.

In Armenia, the situation is different in the sense that a robust legal and policy framework is in place to support the realisation of various elements of the HRWS. The participants from the Armenian group had the opportunity to review the water governance framework of Armenia at the international and national level. Some regional mechanisms were addressed through the highlighting of an Armenian case on access to drinking water and sanitation at the European Court of Human Rights and Armenia’s activities in relation to the Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes (the Protocol), particularly its completed review under the Equitable Access Score-card and the resulting Action Plan 2018-2020 on the Provision of Equitable Access to Water Supply and Sanitation. Further, the baseline statistics of access to water and sanitation as articulated in the Joint Monitoring Program 2017 Update were discussed. These figures demonstrate geographical disparity among rural and urban areas, with the most significant gap being rural areas lagging concerning access to basic sanitation services. Details of key provisions in the Water Code and Laws on National Water Policy and Program were also introduced with an emphasis on the provisions which are reflective of the normative content and principles of HRWS. Finally, a brief review of Water, Sanitation, and Hygiene (WASH) in schools was presented as some schools, particularly of rural areas, lack access to adequate water and sanitation. Statistics from a WHO study for the pan-European region on availability estimate coverage at 92% for water and 86% for sanitation. National standards and targets
under the Protocol, as well as recommendations from the Save the Children report on operation and maintenance financing for WASH in schools were also considered.

2017 Forum on Business and Human Rights

The participants registered to the 2017 Business and Human Rights Forum, where they had the option to choose between the sessions offered on that day. The table below provides an overview of the different sessions. Most participants were spread across the sessions.

<table>
<thead>
<tr>
<th>15:00-18:00 (parallel tracks)</th>
<th>18:15-19:45 (evening sessions)</th>
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<tbody>
<tr>
<td><strong>Exploring elements of effective remedy</strong></td>
<td>- Solid documentation as point of departure for access to remedy (XXIII – E/5)</td>
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<tr>
<td>- Part 1: Conversation with the UNWG Chair: The UNWG report to the UN General Assembly – realizing access to effective remedy</td>
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<td>- Part 2: Victims’ perspectives concerning effective remedy (case studies) (XX – E/F/5)</td>
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<td><strong>Implementing the UNGPs through policy and regulation – Trends and case studies</strong></td>
<td>- Film screening: “Complicit” (XXI)</td>
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<td>- Part 1: Where is government regulation heading?</td>
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<td>- Part 2: The French duty of vigilance law – companies and stakeholder perspectives</td>
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<td>- Part 3: Rule of law reform in the Indonesian fishing industry: ensuring company responsibility to respect human rights (XX – E/F/5)</td>
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<td><strong>Operationalizing corporate respect for human rights: how far have we come?</strong></td>
<td>- Multi-stakeholder debate (“Oxford Union style”): Can non-judicial remedy be effective? (followed by reception) (XXI)</td>
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<td>- Part 1: Case studies on strengthening human rights performance over time</td>
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<td>- Part 2: How far have we come, and what is needed to move forwards (XXI – E/F/5)</td>
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<td>- Part 1: Case studies on UNGPs-SDGs linkages</td>
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<td>- Part 2: Corporate respect for human rights and the SDGs: understanding and unleashing a powerful relationship (XXII)</td>
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<td><strong>Technology and human rights</strong></td>
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<td>- Part 1: Addressing access to remedy in the digital age: Corporate misconduct in sharing and processing personal data</td>
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<td>‘Snapshot’ track</td>
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<td>- ‘Brightness presentations’ (IX)</td>
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Module 4: Mapping specific human rights and water issues

The fifth module sought to link the theoretical information provided to the participants with actual challenges faced in Armenia and Georgia. To this effect, small working groups were established whereby the participants were encouraged to reflect on water-related challenges from a human rights perspective. After reporting to the other groups, solutions were discussed. This paved the way to the interactive session of module 7, where representatives from both institutions developed an action plan on how each institution can move their work on HRWS forward.
Similar challenges in both countries were reported by the groups, with issues mainly around infrastructure in schools, poor governance and lack of access to safe drinking water and sanitation in certain rural areas. Wastewater reuse was also identified as a challenge in Georgia. In Armenia, the recent raise in tariffs might lead to affordability issues in the country. The Human Rights Defender’s Office is expected to closely monitor the situation. The participants have been able to link the challenges related to the normative content of the HRWS with key human rights principles. This exercise also enabled them to identify possible ways to address the situation. The main ideas reported for solutions to the challenges identified concerned the area of governance and public participation and information. One team identified a set process that should be followed to ensure public participation. The participants have previously discussed the fact that often when participation is possible, the participants do not have sufficient knowledge of the issues at stake to be able to actively share their needs and concerns. Finally, other actors that should be involved, and possible activities to solve the issues were identified. These were discussed more concretely during module 7.

Module 5: Monitoring frameworks for the HRWS and SDGs
In light of the call for NHRIs to support the realisation of the Sustainable Development Goals (SDGs) and the monitoring role of NHRIs, a specific module was dedicated to monitoring the HRWS and SDGs. After a first introductory session to the Sustainable Development Agenda, Guy Hutton, development economist and senior advisor for WASH at UNICEF, was invited to discuss the Joint Monitoring Programme with a special focus on challenges and opportunities around monitoring affordability. The new service ladders for SDG WASH monitoring and reporting from the 2017 JMP Update, which have raised the bar on the previous standards, were introduced. In terms of measuring affordability it was noted that a comprehensive approach is required and involves evaluating several factors such as whether payment for water and sanitation hinders one’s ability to pay for other essential goods or services and if the time used to access WASH services prevents other important activities such as going to work or school. In addressing the next steps for monitoring WASH affordability it was disclosed that different methodologies for measuring affordability will be tested through a case study program involving multiple countries.

Another initiative with a monitoring role in the context of SDG 6, the WHO Global Analysis and Assessment of Sanitation and Drinking-Water (GLAAS), was introduced by invited speaker, Fiona Gore, who discussed the challenges faced with respect to the two global indicators developed for
SDG 6.a and 6.b. In particular she has highlighted the different perspectives on what should be in fact monitored. Her insightful presentation served also as a good introduction to the last part of module 6 on the interlinkages between HRWS and SDG 6 where legal officer Lenka Kruckova gave an overview of the monitoring framework of the HRWS, before focusing on HRWS indicators and global indicators for targets 6.1 and 6.2. She highlighted the strong reinforcement between the two frameworks, how they benefit each other, but also what aspects to look at when reviewing national indicators. Guided by the draft list of indicators developed by OHCHR, the participants were encouraged to identify relevant indicators in light of the most pressing challenges identified over the first two days of the training.

Module 6: International mechanisms and themes

In the first part of Module 6, which was held on day 3 of the training, Eva Barrenberg from the Secretariat of the Water Convention and the Joint Secretariat of the Protocol on Water and Health was invited to present the latter instrument and its relevance for the States in the region. The participants, who were not familiar with this instrument, had the opportunity to make links with the HRWS. After an introductory video on the Protocol on Water and Health, Ms. Barrenberg discussed the different priority areas of the programme of work. The interactive session led to discussions on the different tools developed under the framework of the Protocol, such as the Score-Card, including material informing on good practices in various areas. The participants were also asked to identify possible targets for their countries.

The second theme addressed on the third training day made linkages between public participation, water and migrants. Dr. Mara Tignino, Reader at the Faculty of Law and Coordinator of the Platform for International Water Law at the Geneva Water Hub, provided participants with legal perspectives on public participation making reference to the existing international framework in place and existing case law. Questions on issues around calculating remedy and the regional approach on public participation were also raised and discussed by Dr. Tignino. The module concluded on the topic of migration, where it was recalled that despite the existence of a gap in certain aspects of the international legal framework, e.g. refugee law, migrants due to climate change or environmental degradation remain at least protected by international human rights law and in some instances by international humanitarian law.

Before breaking for lunch and initiating the last module of the training, participants were introduced to Dr. Halshka Graczyk, from the Institute for Work and Health in Lausanne (Switzerland), who took the participants over the existing framework and issues surrounding water, sanitation and hygiene at work. Dr. Graczyk, who developed a comprehensive review on WASH at work for the ILO, confirmed the there is a legal framework concerning the subject inclusive of the Covenant on Economic, Social, and Cultural Rights and the ILO Occupational Safety and Health Convention. Concerning links between health and access to safe water and hygiene at work, a correlation was drawn between the lack of adequate WASH
access in work environments and the effects on the community at large. Elements which are to be considered in relation to adequate WASH facilities include gender, cultural sensitivity, and themes of accessibility; approved break times and sufficient number available.

Module 7: Way Forward
The participants concluded the training with a module looking at the possible activities that could be implemented by each NHRI to support the realisation of the HRWS. They started the first steps of the development of an action plan for their institutions with the aim of identifying how the institutions can further the realisation of the HRWS within the scope of their mandates.

Representatives from the Human Rights Defender’s Office of Armenia identified five key activities, some of which will be kicked-off in the first quarter of 2018. Activities will cover namely monitoring of schools and kindergarten, but also including a WASH component in the alternative report that the institution will prepare in the framework of Armenia’s coming reporting cycle under the Convention on the Rights of the Child. Other activities include increased information on the HRWS in reports submitted to the Parliament, awareness-raising campaigns and monitoring of water wastage in different regions. The participants identified key actors to cooperate with, and tools to be developed or used.

The Public Defender’s Office of Georgia foresees to focus its areas of intervention on disaster prone regions and educational institutions. The representatives of the office identified key activities that will enable them to work on the HRWS in those areas, looking at existing legislation at national level, undertaking field visits to monitor in particular accessibility to services but also the quality of water and sanitation. An awareness raising activity is foreseen with the development of booklets. The participants will be cooperating with various types of actors, including government, partner organisations and service providers. Finally, in addition to preparing the institution’s regular annual report, a specific report on the HRWS should be developed by the Public Defender’s Office in 2018.

Currently evolving legal and policy frameworks in both countries will enable the participants to review draft laws considering their learnings on the HRWS. Based on the post-training evaluation, the results demonstrate a substantial increase in the participants’ understanding of the content of the HRWS,
obligations of the State and other relevant actors in relation to the HRWS, as well as an important increase in the participants’ capacity to identify key water governance challenges in their country and identify key issues related to the HRWS at national level. For example, before the training, participants on average evaluated their knowledge of the topics covered during the training at 2.7/5, compared to 4.4/5 after the training. Their ability to identify key issues at national level was evaluated at 2.7/5 before the training and 4.6/5 after the training.

Acknowledgments
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