



# General Assembly

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## Human Rights Council

Twenty-seventh session

Agenda item 3

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

### **Written statement\* submitted by Article 19 – The International Centre Against Censorship, a non- governmental organization on the roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2014]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-14816 (E)



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## Freedom of Expression and Information and Rights to Water and Sanitation

ARTICLE 19 welcomes the Report of the Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, Catarina de Albuquerque (Special Rapporteur): **Common violations of the human rights to water and sanitation** and the Report of the Office of the High Commissioner for Human Rights (OHCHR): **Factors that impede equal political participation and steps to overcome those challenges**, both being presented being presented at the twenty-seventh session of the UN Human Rights Council (HRC) in September 2014.

We welcome that the reports highlight the need to ensure meaningful participation of all people, in particular marginalised, discriminated and vulnerable groups, in conduct of public affairs, including in water and sanitation decision making. The report of the Special Rapporteur also stresses out the role of access to information as important means of prevention violations of the rights to water and sanitation. ARTICLE 19 supports the recommendations outlined in the report and urges the States to address them on domestic and international levels.

Additionally, we also call on the HRC and the States to recognised the importance of the right to freedom of expression and information in the water and sanitation agenda and adopt broad range of legal and policy measure to esure individuals and communities can fully rely on freedom of expression when claiming the rights to water and santiation.

ARTICLE 19 elaborated such recommendations in the **Free Flow Principles: Freedom of Expression and Information and Rights to Water and Santiation** (The Free Flow Principles) that we urge the HRC and the States to consider.

### Importance fot the right to freedom of expression and informaiton

ARTICLE 19 has long argued that the right to freedom of expression and information is an empowerment right - one that enables other rights to be protected and exercised. As such, its main components - **the right to speak, the right to be heard** and **the right to know** - can play a crucial role in promoting, enforcing and demanding the full realization of the rights to water and sanitation.

The right to freedom of expression is also an empowerment right: it allows people to claim other human rights, demand access to essential services and to participate in decision-making affecting their lives. It is essential for accountability and transparency which are principles that are essential for the realisation of other rights. In short, we believe that freedom of expression is a key tool to the ensuring the success of any efforts towards the realisation of the rights to water and sanitation.

### Violatons of the right to freedom of expression and informaiton in relations to rights to water and sanitation

In its work, ARTICLE 19 documented a number of problems, violations and challenges faced by individuals, communities, and society at large in pursuit of the rights to water and sanitation. In particular, we wish to highlight the following:

#### **The right to know**

- *Limited number of freedom to information laws:* Despite a global trend towards adoption of right to information laws, many stats still lack dedicated right to information laws, preventing people from access to important information related to their rights to water and sanitation;
- *Inadequate freedom of information laws:* Even in states which do have such laws, there are further challenges to using the right to information to realise the rights to water and sanitation as many laws are be weak and lacking in the necessary detail to effectively guarantee the rights;
- *Failing to meet obligations under the law:* Public authorities are using state secrets or trade secrets legislation or exceptions to avoid disclosing important water and sanitation related information;
- *Culture of secrecy and structural obstacles* (such as poor standards of record-keeping and a lack of reliable, accurate and accessible information on water and sanitation related issues) allow public authorities and other entities to avoid their obligations under information laws;
- *Corruption and lack of transparency* in the water and saniation sectors, particularly in regard to the privatisation of water services and hydropower projects, create significant challenges in access to information related to the rights to water and sanitation.

**The right to speak**

- *Censorship*: ARTICLE 19 identified several cases of censorship of the media when reporting on water and sanitation related issues;
- *Media and rights to water and sanitation*: There is evidence of a lack of appreciation for the important role that can be played by the media in realising the rights to water and sanitation and improvement is needed in the capacity of the media to report on such issues;
- *Digital technologies* can be used effectively to help secure the rights to water and sanitation, however there is currently limited use of this option, due to a range of factors, such as inadequate technical infrastructure, limited capacity of services and high costs of communications equipment.

**The right to be heard**

- *Attacks and impunity*: ARTICLE 19 has documented a number of cases of attacks on journalists, human rights defenders and activists investigating water related issues as well as attacks on people demanding their right to water through peaceful protests. Water-related protests and state censorship of water related reporting can also be a problem.
- *Public participation* in water and sanitation related decision making: ARTICLE 19 has identified a number of cases demonstrating that public authorities fail to understand that democracy requires public involvement in decisions affecting them, including those related to water and sanitation. The most serious examples include an absence of public consultations in regards to hydropower projects or only limited and flawed consultations; the exclusion of large proportions of affected groups and communities and limited or no consultation with marginalised, vulnerable and discriminated against groups.

**The Free Flow Principles**

The Free Flow Principles recognise the positive relationship between the right to freedom of expression and information and the rights to water and sanitation. They set out the minimum obligations of states and other duty bearers, including private parties, to protect and promote these rights. They also seek to promote the principles of the free flow of information, transparency, accountability and good governance and civic engagement in related decision-making. As such, they apply to water sector in a broad sense, covering water supply and sanitation, integrated water resources management and water for the purposes of the industry.

The Principles are founded on the following inter-connected aspects of the right to freedom of expression:

- *The right to know*: Information empowers people to pursue their rights to water and sanitation. This aspect of the right obliges governments and other duty bearers to proactively inform the population about issues relating to water and sanitation, water-related resources and management. It is the basis for transparency, accountability and good governance in all water and sanitation related matters.
- *The right to speak*: The freedom of the media and freedom of individuals to communicate information to the public is a key aspect of the right to speak. Individuals have the right to voice their or others' opinions and discuss matters relating to their rights to water and sanitation. Media and digital technologies make it possible to seek, impart and disseminate information and to critically assess the conduct of a state with regard to these rights.
- *The right to be heard*: Individuals, human rights defenders, activists, independent civil society organisations, communities and groups must be able to participate in water and sanitation-related decision-making and to freely voice their concerns without fear of reprisals or discrimination. This aspect of the right also implies the adoption of special measures ensuring the right to freedom of expression for all people in society, especially women, vulnerable and marginalised populations, and those who are discriminated against on any protected grounds recognised in international law.

ARTICLE 19 encourages the Special Rapporteur and the OHCHR to use the Free Flow Principles in their work and for States to use the Principles in their decision making processes.