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

Follow-up on the visit of the Special Rapporteur to Botswana

Report of the Special Rapporteur on the human rights to safe drinking water and sanitation*

Summary

The Special Rapporteur seeks to enhance the effectiveness of his official country visits by undertaking a follow-up analysis of his visits focusing on the implementation of recommendations presented in his country visit reports. The report of the official visit to Botswana (A/HRC/33/49/Add.3) was presented to the Human Rights Council in September 2016. The main findings of the follow-up are presented in this report, introducing the level of development of the recommendations and highlighting further recommendations derived from the current status.

* The present document is being issued without formal editing.



I. Background

1. Pursuant to resolutions 27/7 and 33/10 of the Human Rights Council, the Special Rapporteur on the human rights to safe drinking water and sanitation undertakes official country visits to promote the progressive realization of the human right to safe drinking water and sanitation.
2. The Human Rights Council encourages all Governments to continue to respond to requests by the Special Rapporteur, to follow up effectively on the recommendations of the mandate holder and to make available information on measures taken in this regard (para. 15 of Resolution 33/10). Furthermore, the Manual of Operations of the Special Procedures of the Human Rights Council stipulates that Special Procedures mandate-holders can seek to enhance the effectiveness of their country visits in various ways, including by formulating their recommendations in ways that facilitate implementation and monitoring and undertaking follow-up initiatives through communications and further visits (paras. 97 to 105). In this connection, the Special Rapporteur seeks to enhance the effectiveness of his official country visits by undertaking a follow-up analysis of those visits, focusing on the implementation of recommendations presented in his country visit reports.
3. The Special Rapporteur on the human rights to water and sanitation, Léo Heller, undertook an official visit to Botswana upon the invitation of the Government from 9 to 17 November 2015. During his mission, he had the opportunity to meet with different interlocutors, including the Government, the Attorney-General, the Water Utilities Corporation, the Ombudsman, local authorities, civil society organizations and international community. He talked to community leaders, human rights defenders, women, children and medical practitioners. Following the conclusion of the mission, the Special Rapporteur shared his preliminary findings with the Government. Additionally, he issued a press release and the end of mission statement,¹ and held a press conference on 17 November 2015. The final report was presented to the Human Rights Council in September 2016 (A/HRC/33/49/Add.3). The comments by Botswana (A/HRC/33/49/Add.6) were also submitted to the Human Rights Council.
4. In undertaking the present follow-up report regarding his mission to Botswana, the Special Rapporteur has, between 1 January and 1 November 2018, conducted desk research on the implementation of the recommendations provided to the Government in his country mission report, in order to create a picture of the Government's current actions, inactions and progress. To support this research enterprise, a call for input was distributed to the Government and to other stakeholders. Whilst no response from other stakeholders was received, the Government of Botswana submitted a written response to the questionnaire on 12 July 2018.
5. In the current report, the main findings of the follow-up are presented, introducing the level of development of the recommendations and highlighting further recommendations derived from the current status. It is organized through relevant clusters of recommendations. The level of implementation of the recommendations are assessed in accordance with the following categories: 1) good progress, 2) progress on-going 3) limited progress, 4) progress not started, 5) unable to assess due to lack of information and 6) retrogression.
6. Prior to final submission, the current report was shared with the Government of Botswana on 22 July 2019 to which the Government did not provide any comments.

II. General developments in the country

7. At the time of the visit, it was identified, through data from the Joint Monitoring Programme (JMP) relating to the progress of States towards the achievement of the Millennium Development Goals, that, as of the end of 2015, 96 per cent of the national population had access to improved water, 63 per cent had access to improved sanitation, and

¹ available at:
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16763&LangID=E>.

14 per cent of the national population, rising to 34 per cent in rural areas, practiced open defecation.² However, more complete and updated information, from 2017 and the same source, but using the stricter definition of access to services adopted by the Sustainable Development Goals targets and indicators, highlights that 90 per cent of the population had access to “at least basic” services for drinking water. While there is no information on the access to “safely managed” services, data reveals that 79 per cent of the national population had water on their premises, with a significant gap between the urban population (93 per cent) and the rural population (47 per cent). Regarding sanitation services, while the 2017 data highlights that 72 per cent of the population has access to at least basic sanitation, when this is disaggregated it shows that 77 per cent have access to “latrines and others” as their source of improved sanitation, 5 per cent have access to septic tanks, and only 1 per cent to sewer connections.³ The report further highlights that 11 per cent of the national population still practices open defecation, with this increasing to 33 per cent in rural areas. Those figures were 22 and 42 per cent in 2000, respectively.

8. The data collected by the JMP does not include information on the number of people in Botswana who have access to ‘safely managed’ water and sanitation services. The additional SDG 6.1 and 6.2 benchmarks of ‘safely managed’ water and sanitation services, introduced by the report, require the provision of “drinking water at home that is free from contamination and available when needed, and toilets from which excreta are treated and disposed of safely.”⁴ Furthermore, no data is available regarding the proportion of the population with access to basic hygiene services. The lack of data itself is a worrying sign of great challenges faced by Botswana in order to reach out those who are being left behind and to meet SDG 6.1 and 6.2. Observations during the visit indicate that there is potentially a significant difference between the achieved coverage of improved water and sanitation, and that of ‘safely managed’ water, sanitation and hygiene management in Botswana.

III. Legal, institutional and policy frameworks

9. The legal, institutional and policy framework is a precondition to an enabling environment for the progressive realization of the human rights to water and sanitation. The framework must be in place in order to create the conditions for the inclusion of all members of the population of a given country in the enjoyment of these rights and to target those in most vulnerable situations with higher priority.

A. Recommendation on international and national laws

RECOMMENDATION 1: “Sign and ratify the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, guarantee the human rights to water and sanitation and prioritize water supply for personal and domestic uses in national legislation.” (A/HRC/33/49/Add.3, para. 72(g))

10. During the Special Rapporteur’s visit to Botswana, it was noted that the State has yet to sign and ratify the International Covenant on Economic Social and Cultural Rights (the ICESCR) and its Optional Protocol (A/HRC/33/49/Add.3, para. 7).

11. At the time of the visit, the Government explained that “Botswana is not oblivious to the importance to the treaties it has not yet ratified. It progressively works on the realisation of issues of concern therein, especially where they are considered paramount by the global village. While Botswana is not a State Party to the International Covenant on Economic, Social and Cultural Rights ... various provisions of the Constitution and other pieces of legislation implicitly recognise them. The ratification by Botswana of recommended treaties

² UNICEF & WHO, ‘Progress on sanitation and drinking water – 2015 update and MDG assessment.’ (Geneva, 2015)
http://files.unicef.org/publications/files/Progress_on_Sanitation_and_Drinking_Water_2015_Update_.pdf, page 58.

³ *ibid*, page 79.

⁴ *ibid*, page iii.

will always be undertaken when the country is in a position to implement the provisions of the different Conventions” (A/HRC/33/49/Add.6, para.27).

12. The Government responded to the questionnaire sent by the Special Rapporteur stating that currently it has no plans to ratify the ICESCR and its Optional Protocol.

13. The Special Rapporteur is disappointed that the Government has not started progress in considering the signing and ratification of the ICESCR and its Optional Protocol. The explanation of the Government as to why the ICESCR and its Optional Protocol have not been ratified indicates that Botswana has the ambition to respect, protect and fulfil the rights contained within the Covenant, and, indeed, already recognises the importance of some of its provisions within its national law. Whilst Botswana may currently regard itself as being unable to ratify the ICESCR and its Optional Protocol, as it is not yet in a position to implement the provisions therein, the Special Rapporteur makes clear that ratification of the ICESCR is a necessary step towards achieving the Government’s ambition to ensure these rights. The ICESCR is drafted as a framework to guide States parties towards the progressive realisation of the rights contained therein. When considered in this light, ratification of the ICESCR will provide clear guidance on the normative content of the human rights to water and sanitation and on human rights principles and, accordingly, is an important precursor to the implementation of its provisions.

PROGRESS NOT STARTED: The Special Rapporteur strongly recommends that Botswana commit itself to the international legal obligations on economic, social and cultural rights by signing and ratifying the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol. This will provide clear guidance on the human rights to water and sanitation and on important human rights principles, which will assist the State in realising those rights, as well as other economic, social and cultural rights.

B. Recommendation on regulatory framework

RECOMMENDATION 2: “Establish an independent regulatory mechanism with the mandate and adequate financial and human resources to monitor the implementation of the human rights to water and sanitation, including good quality water and affordable services.” (A/HRC/33/49/Add.3, para. 72(h))

14. At the time of visit, the Government did not accept the recommendation that an independent regulatory body should be established to monitor water and sanitation standards, explaining that whilst the Cabinet had approved the establishment of the Botswana Energy Regulatory Authority, it had excluded water from the jurisdiction of the regulator on the basis that water is “considered a strategic commodity which cannot be left in the hands of the private sector” (A/HRC/33/49/Add.6, para. 28). The exclusion of water from the remit of regulatory authorities was disappointing, as failure to ensure independent oversight of the functions of water providers is highly likely to weaken the enjoyment of the human rights to water and sanitation (A/HRC/33/49/Add.3, para. 16).

15. However, in its response to the Special Rapporteur’s follow-up questionnaire, the Government has stated that it has since taken a decision to create an independent regulatory body for water provision. Whilst this body is yet to be established, the Government has noted that it has directed the “promulgation of legislation of the establishment of an Independent Water Regulator” by way of Presidential Directive.⁵

16. The Special Rapporteur welcomes the positive development on the establishment of an independent regulator in the water and sanitation sector (see, A/HRC/36/45). The establishment of effective, independent regulatory bodies is vital to the achievement of the human rights to water and sanitation as these entities can, inter alia, generate impartial, human rights-centric standards for actors operating in the water and sanitation sector and ensure accountability for any breaches of those standards. Such an independent regulator

⁵ Presidential Directive CAB 32 (B)/2017.

should be given the mandate and adequate financial human resources to monitor the implementation of the human rights to water and sanitation, going beyond issues related to water resources management and financial sustainability of the providers.

GOOD PROGRESS: The Special Rapporteur looks forward to the regulator beginning its vital role of ensuring that water and sanitation provision in Botswana meets human rights standards. He recommends that the Government ensures adequate resources are provided to ensure the regulator is able to undertake its role, whilst protecting its vital independence.

C. Recommendation on policy framework

RECOMMENDATION 3: “Adopt the draft national water policy in order to approach water and sanitation issues in a comprehensive manner guided by the principles and normative content of the human rights to water and sanitation. Such a policy should include a long-term strategy for sustainable water resources management, taking into account the foreseen increase in water stress.” (A/HRC/33/49/Add.3, para. 72(a))

17. During his visit to Botswana, the Special Rapporteur learned the Government had drafted a new national water policy, which was noted to represent a positive step forward as its provisions and principles conformed to the normative content of the human rights to water and sanitation, as well as other human rights principles such as equality and non-discrimination. At the time of his visit, the policy was awaiting approval by Parliament, however it had not yet been introduced (A/HRC/33/49/Add.3, para. 17).

18. Following the conclusion of the Special Rapporteur’s visit to Botswana, it was reported that Parliament, in August 2016, approved the National Water and Sanitation Policy. In its response to the Special Rapporteur’s follow-up questionnaire, the Government noted that under the National Water and Sanitation Policy water is regarded as a “basic human necessity” and that “gender and social equity in accessing water resources will be insured (sic).”

19. The Special Rapporteur unfortunately has not received a copy of the adopted national water policy and has therefore been unable to assess in detail if the policy incorporates the principles and normative content of the human rights to water and sanitation. However, the Special Rapporteur commends the adoption of a national water policy which, according to the Government, identifies water as a vital necessity for human life, whilst promoting equity of access.

PROGRESS ON-GOING: The Special Rapporteur notes that the national water policy which regards water and sanitation as a basic human necessity has been adopted. In order to observe and assess the policy from a human rights perspective, more information and a copy of the policy should be widely publicized so as to enable the international community to determine the extent to which it complies with human rights standards.

IV. The human rights to water and sanitation

20. Water and sanitation services must be accessible to everyone, on the premises of households, health and educational institutions, public institutions and places, and workplaces. The human right to safe drinking water entitles everyone, without discrimination, to have access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use, and the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity, and both rights are components of the right to an adequate standard of living.

A. Recommendation on maximum available resources

RECOMMENDATION 4: “Increase the budget to the maximum available level to progressively realize the human rights to water and sanitation and target underdeveloped areas, such as rural areas and new settlements, to ensure equality.” (A/HRC/33/49/Add.3, para. 72(k))

21. The achievement of the progressive realization of the rights to water and sanitation requires that States utilise the maximum of their available resources when implementing their water and sanitation policies and programmes. The mission report of the Special Rapporteur identified that Botswana was badly lagging behind with regards to its water and sanitation investment and therefore could not be deemed to be utilising the maximum of its available resources in achieving the rights (A/HRC/33/49/Add.3, para. 49-53).

22. In response to this recommendation, the Government indicated that it accepted it should allocate greater resources to water and sanitation projects, and stated that the Ministry of Minerals, Energy and Water Resources undertakes continuous engagement with development actors to maximise the resources available to it. This is supported by the third cycle review of Botswana under the Universal Periodic Review (29th session of Universal Periodic Review Working Group in January 2018), wherein it was reported that “Botswana is faced with challenges of scarcity of water, delayed infrastructure development, and limited funding. In this regard, the country is sourcing funding for infrastructure development from its development partners.” (A/HRC/WG.6/29/BWA/1, para. 132).

23. The Government further commented in its response to the Special Rapporteur’s follow-up questionnaire that “[t]hrough National Development Plan 11, the Botswana Government has approved budget for water and sanitation projects for development of water and sanitation infrastructure in areas that were initially not covered, to ensure that drinking water reaches those communities and there is safe disposal of human excreta. The budget also caters for transfer schemes to enhance efficiency of water supply.” The National Development Plan 11 [2017 to 2023] expenditure (inclusive of the Economic Stimulus Programme) is over P101.406 billion [USD \$9,481 billion as of 1 November 2018]; the bulk of which will be used to fund various infrastructure projects in areas such as water.⁶

24. Data from the Ministry of Finance shows that the Government has increased the budget allocation of the Ministry in charge of water provision. Of Botswana’s Development Budget for the 2017/2018 financial year (P16.52 billion), the Ministry of Land Management, Water and Sanitation was afforded with the second largest share, at 17.0 per cent, or P2.80 billion.⁷ This amount was to be used for water projects including the North-South Carrier II to increase the supply of water to the south of the country as well as installation of water pipes from the Thune Dam to local villages.⁸ As of 2018/2019 the budgetary allocation to the Ministry of Land Management, Water and Sanitation had been afforded the largest share of the development budget, with its funding increased to P3.29 billion, although this remained the same as the previous financial year in percentage terms.⁹

25. The Special Rapporteur is encouraged that the Government has allocated a larger portion of budget to the development of water infrastructure. It is vital that the Government continues to ensure a significant proportion of the development budget is allocated to the Ministry of Land Management, Water and Sanitation so as to enable it to continue increasing

⁶ Republic of Botswana, National Development 11: April 2017 – March 2023 (Draft). Volume 1, Ministry of Finance and Development Planning, September 2016. Consulted 4 Sep. 2018, <http://www.ncongo.info/wp-content/uploads/2017/02/NDP-11.pdf>.

⁷ Republic of Botswana, Ministry of Finance and Economic Development, ‘The 2017/18 Budget-in-Brief’ available at, https://www.cabrisbo.org/uploads/bia/botswana_2017_approval_external_enacted_budget_ministry_of_financesadc_english_1.pdf, page 10.

⁸ *ibid*

⁹ Republic of Botswana, Ministry of Finance and Economic Development, ‘The 2018/19 Budget-in-Brief’ available at, <http://www.gov.bw/contentassets/1c5907f150d144fa81fef3f1cbb72b8d/budgetinbrief20180201.pdf>, page 8.

and improving Botswana's water and sanitation services. He further recalls the importance of the Government securing the budget necessary for the implementation of the National Development Plan, including through international cooperation. It is, however, of concern that no reference is made in the national budget to projects intended to improve sanitation in Botswana which, putatively, is in direct contradiction to the State's obligation to utilise the maximum of its available resources in ensuring the rights to both water and sanitation. The obligation to utilise the maximum of available resources requires that maximal budgetary allocations are made for the achievement of all economic, social and cultural human rights. It is therefore vital that Botswana ensure sufficient funding is provided for sanitation projects, as well as those for water.

LIMITED PROGRESS: The Special Rapporteur calls on the Government to ensure that sanitation is properly budgeted for and that acceptable levels of resources are made available to ensure the enjoyment of the human right to sanitation. The Special Rapporteur further reiterates his recommendation that water and sanitation projects should prioritize people living in remote areas and new settlements to ensure equality in access to water and sanitation.

B. Recommendation on water availability

RECOMMENDATION 5: "Adopt special measures to protect the poor and people living in vulnerable situations from the impacts of water rationing both in normal circumstances and during emergency situations." (A/HRC/33/49/Add.3, para. 72(d))

26. In ensuring water availability, States should provide a continuous supply of water that is sufficient for the personal and domestic needs of each person. These needs include water for drinking, preparing food, ensuring hygiene, and for personal sanitation.¹⁰ At the time of the visit, Botswana was experiencing a severe drought and a large proportion of the population was suffering from water shortages, with many being subjected to strict water rationing. It was noted that this rationing was having a particularly negative impact to those in vulnerable situations (A/HRC/33/49/Add.3, paras. 25 and 70).

27. In response to the Special Rapporteur's recommendation regarding the effects of water rationing, the Government has noted that it will only implement measures such as rationing in the event that the country experiences droughts, and not in normal circumstances. Accordingly, water rationing was last introduced in the years between 2014-2016, when there was a significant drought. The Government noted that whilst the WUC does not place limitations on its water rationing policies, so as to ensure that people in vulnerable situations are not affected, interim measures exist, such as water bowsing, which can be used to distribute water to those with the greatest need.

28. In addition to these interim measures, the Government has noted it has embarked on a four-year project, known as the Botswana Emergency Water Security and Efficiency Project, in conjunction with the World Bank, designed to increase water security in the country in the face of drought.

29. Whilst the creation of a dedicated policy for increasing water security, constructed in conjunction with international donors and experts, should be applauded, it is disappointing to note that progress towards achieving the project's objectives has been lacklustre. As of its latest project review on 7 September 2018, the World Bank reported no advancement had been made in relation to the improvement of availability of water in areas vulnerable to drought, the improvement of waste water and sludge management, or on sector reform and institutional strengthening, and the overall implementation of the project was regarded as 'moderately unsatisfactory.'¹¹

¹⁰ General Comment 15, at para. 12(a).

¹¹ World Bank, "Emergency Water Security and Efficiency Project (P160911): Implementation Status & Results Report", 7 September 2018, consulted 1 November 2018 <http://documents.worldbank.org/curated/en/931991536287740795/pdf/Disclosable-Version-of-the-ISR-Emergency-Water-Security-and-Efficiency-Project-P160911-Sequence-No-04.pdf>.

30. The Special Rapporteur commends the Government's efforts, with support of the international community, in seeking to improve the availability of water supply and support drought-affected communities. However, it is disappointing to note that these projects are currently not achieving their aims. All efforts to promote greater availability of water in drought-affected communities must be implemented in a way that promotes the realisation of the rights to water and sanitation progressively, and if projects are failing to meet this standard they must be reevaluated and greater efforts must be made to achieve their objectives.

PROGRESS ON-GOING: The Special Rapporteur calls on the Government to strengthen its efforts towards the achievement of water security in the country and reiterates that contingency plans should be in place to face situations where water rationing is required, prioritizing the protection of the poor and people living in vulnerable situations.

C. Recommendations on water quality

RECOMMENDATION 6: "Immediately adopt measures to improve water treatment, including disinfection of the entire water supply system and revisiting water rationing measures." (A/HRC/33/49/Add.3, para. 72(b))

RECOMMENDATION 7: "Set up a systematic water quality monitoring between the Water Utilities Corporation and the Ministry of Health and increase the frequency of the water quality monitoring programme carried out by the Department of Water Affairs, regardless of the creation of an independent regulatory body." (A/HRC/33/49/Add.3, para. 72(c))

31. During his visit, the Special Rapporteur observed the prevalence of waterborne diseases in Botswana, the low compliance levels of microbiological analysis of water sources, and the insufficiency of existing wastewater treatment facilities in Gaborone and Francistown. Equally, sampling of 34 monitoring areas, performed by the WUC, revealed high levels of non-compliance with microbiological parameters and/or an absence of data (A/HRC/33/49/Add.3, paras. 28-30). Furthermore, the Special Rapporteur noted the low effectiveness of Botswana's current water quality monitoring system, in particular the lack of water quality information exchange between the country's main provider, the WUC and the Ministry of Health, which has responsibility for monitoring the quality of drinking water, the lack of availability of information regarding water quality for communities, and the sporadic nature of testing (A/HRC/33/49/Add.3, paras. 28-34).

32. At the time of the visit, the Government accepted the recommendation to improve water treatment, and outlined several methods utilised by the WUC to address microbial contamination of water sources, including the auditing and servicing of disinfection systems and the use of disinfecting floaters where systems do not exist (A/HRC/33/49/Add.6, para. 22). In its response to the questionnaire, the Government further stated that "[r]aw water from surface water sources is treated by passing it through conventional water treatment facilities with flocculants and finally [is] disinfected with chlorine/chlorine dioxide. Currently the chlorine facilities are being upgraded to the use of chlorine dioxide which is more effective. Raw water from groundwater is treated with appropriate treatment facilities e.g. Reverse Osmosis technology."

33. The Special Rapporteur is pleased that the Government accepted his recommendation and takes the upgrading of the water treatment facilities as a positive step. However, he notes that as no data has been made available regarding water quality levels after the upgrading processes it is not clear whether the updated treatment facilities have impacted positively the quality of water.

34. In relation to establishing an improved system for water quality monitoring, during the Special Rapporteur's mission the Government noted that it had already implemented plans to improve the frequency of water quality monitoring by establishing a "multi-stakeholder Water, Sanitation and Hygiene programme," which brings together stakeholders including the WUC, Botswana Bureau of Standards, and Ministries of Health; Minerals,

Energy and Water Resources; and Local Government and Rural Development (A/HRC/33/49/Add.6, para.23). In responding to the questionnaire, the Government elaborated on this plan. It noted that, under the scheme, the Department of Water Affairs will be responsible for monitoring ambient water quality, the WUC will guarantee the quality of water during the course of its production, and the Ministry of Health has the overarching responsibility of ensuring compliance with the Botswana standards for drinking water. The Government further noted that the WUC will, itself, monitor water quality on a daily basis, however the functions of the Ministry of Health will be delegated to local authorities via the Ministry of Local Government and Rural Development. Under the programme all stakeholders will communicate and where non-compliance with quality standards is identified by local authorities the WUC is required to rectify this.

35. Whilst the Special Rapporteur is encouraged by the efforts of the Government to develop a more stringent system of water quality monitoring to ensure quality levels do not drop to inadequate levels, sufficient, up-to-date information and data has not yet been made available regarding the programme in order to judge its effectiveness. In particular, information is lacking regarding the measures that have been taken by the Government to improve the coordination of water quality monitoring between the various stakeholders in the programme, and if and how these measures have had an impact on the quality of drinking water. The Government has noted that the Department of Water Affairs has increased the frequency of water quality monitoring two times since the practice was initially introduced, however this does not clarify the precise levels of monitoring, and therefore speaks little to their effectiveness and compliance with standards.

RECOMMENDATION 6 – PROGRESS ON-GOING: The Special Rapporteur recommends, together with his recommendation on the systematic water quality monitoring, that the Government continue its efforts to improve the quality of water in a systematic manner and reiterates the need to make information on water quality public so as to allow access to transparent information on the outcomes of the upgrading process.

RECOMMENDATION 7 – LIMITED PROGRESS: The Special Rapporteur continues to encourage the establishment of an improved systematic water quality monitoring system, integrating the roles and activities of the Water Utilities Corporation, the Ministry of Health and other stakeholders. However, more information is needed regarding how the revised processes operate in order to be able to fully assess whether they are capable of assisting Botswana to respect, protect and fulfil the human rights to water and sanitation.

D. Recommendations on the tariff system

RECOMMENDATION 8: “Review the tariff system, particularly the scheme of applying the same tariff to households and businesses, in order to balance the sustainability and affordability of water and sanitation services particularly for the poor.” (A/HRC/33/49/Add.3, para. 72(e))

RECOMMENDATION 9: “Explore cross-subsidy and fiscal subsidy systems for emptying pit latrine services to ensure fair charges.” (A/HRC/33/49/Add.3, para. 72(m))

36. A key concern that arose during the Special Rapporteur’s mission to Botswana was the effects of the WUC’s tariff system on households, particularly those of the poor and people in rural areas. As then phrased, the tariff system charged the same rate to households and businesses and did not take account of households with low incomes, who were sometimes disconnected from the water supply for not being able to pay their bills (A/HRC/33/49/Add.3, paras. 37-42).

37. In addressing the Special Rapporteur’s recommendation regarding water and sewerage tariffs, the Government responded to the follow-up questionnaire stating that, as of April 2017, the tariff structure for water and sewerage provision had been reviewed and implemented. The tariff system is a block system with rising water tariffs for higher user

bands, based on the water tariff study conducted in 2014.¹² The Government reported that it has removed the minimum service charge and exempted the valued-added tax for the first 5,000 litres.

38. Regarding the Special Rapporteur's recommendation on the subsidisation of pit latrine services, the Government noted in its response to the questionnaire that "[t]here are three different tariff structures namely, the government, commercial/industrial and domestic. The first two are higher and meant to subsidise the domestic tariff structure." Supplementary documentation provided by the Government shows that, effective 15 February 2016, the WUC decreased the cost of pit latrine and septic tank emptying from P600 and P500 to P500 and P400, respectively, and eliminated extra charges for long distances. Also, the WUC reduced the reconnection charge from P150 to P100 and the deposit for new customers from P400 to P200, in villages only.¹³ Furthermore, the Government has revealed its intention to favour cost recovery in the provision of sanitation services while implementing subsidies to ensure affordability for the population.

39. The Special Rapporteur notes that the Government has approved the revised tariff system which intends to balance the affordability and sustainability of water and sanitation services by adopting the cross-subsidy system and by reducing basic costs for household users. The Special Rapporteur trusts that the Government will strengthen the monitoring of the affordability of water and sanitation for the poor and the disadvantaged and give particular attention to the impact of the new system of increasing block tariffs on those large poor households that potentially need to consume a greater amount of water.

RECOMMENDATION 8 – PROGRESS ON-GOING: The Special Rapporteur encourages the Government to maintain a system of water and sanitation tariffs which better meet the needs of people who are marginalised and in vulnerable situations. He further notes the importance of regularly reviewing the tariff system to ensure that it is still able to meet these needs in a manner which complies with Botswana's human rights obligations.

RECOMMENDATION 9 – LIMITED PROGRESS: While noting that the Government has taken measures to decrease the tariffs, the Special Rapporteur nonetheless points out that no concrete measures have been taken to address cross-subsidy and fiscal systems for emptying pit latrine services to ensure fair charges. Therefore, he recommends that the Government devise a mechanism to operate a subsidisation system for pit latrine services and to constantly review this mechanism to ensure it is able to adequately ensure affordability for those on low-incomes.

E. Recommendation on the special tariffs and subsidies

RECOMMENDATION 10: "Establish a safeguard system to protect access to essential water and sanitation for those living in poverty and those with special needs, including health conditions, through the provision of financial assistance, special tariffs, subsidies or other measures." (A/HRC/33/49/Add.3, para. 72(f))

40. The Special Rapporteur noted that difficulties faced by people in paying their water and sanitation charges, and subsequent disconnections as a result, disproportionately affected individuals in vulnerable situations, leaving their enjoyment of the rights to water and sanitation at greater risk than others. Consequently, he recommended that the Government set up systems to ensure these people are protected from these deleterious outcomes (A/HRC/33/49/Add.3, para. 37).

41. In response to this recommendation, the Government has noted that "[t]here are safeguards in place for the poor, elderly, orphans, people with disabilities and poor patients

¹² Water Utilities Corporation, "Water Utilities Corporation Tariffs: Effective 1 April 2017" https://www.wuc.bw/common_up/wuc-new/news-08-022017_WUC%20TARIFFS%20REVIEW.pdf.

¹³ Water Utilities Corporation, "Water Tariffs - Effective 1st April 2015"; Water Utilities Corporation, "Water Utilities Corporation Fees Effective 1st September 2015".

who are terminally ill to protect their access to essential water and sanitation. These include the Destitution programme whereby a poor household is assessed and registered as needy and therefore is exempted from all levies and utilities and the local Council pays [these] on their behalf. They also receive a cash allowance of P250 (\$25) every month and a monthly food basket for the family. There is also an Orphan Care programme for orphans which covers all orphans who are registered with the local Council with their monthly needs and any other support they need including [a] monthly food basket, school uniform, school necessities and funds for their social amenities. People with disabilities, the elderly aged 65 years and above and World War II Veterans or their surviving spouses have monthly cash allowances of P400 (\$40), P430 (\$43) and P550 (\$55) respectively to cater for their basic necessities which include water and sanitation.”

42. In the period 2015/2016, there were 32,865 beneficiaries of programmes for orphaned and children in vulnerable situations. An assessment of the Orphan Care Programme, carried out by UNICEF in 2016, documented negative experiences regarding the distribution of toiletries. In some cases, it was indicated that the soap provided led to skin rashes. Moreover, the resources provided for food and toiletries were sometimes not enough for caregivers of orphans to buy the intended amounts, which affected school attendance and performance negatively.¹⁴

43. The Special Rapporteur welcomes the Government’s efforts to introduce and maintain programmes aimed at alleviating conditions of poverty for the poor, the elderly, orphans, people with disabilities and others who are in need, including by paying their water and sanitation bills or providing a cash allowance to cover water and sanitation costs. Programmes such as these are of vital importance to the realisation of the human rights to water and sanitation in line with the obligation of non-discrimination.

LIMITED PROGRESS: The Special Rapporteur notes that the Government implemented several short-term measures to safeguard access to water and sanitation for the population in vulnerable situations. He recommends that the Government continue and improve its efforts to further strengthen these safeguards, particularly long-term measures with a broader coverage, such as special tariffs and subsidies, in order to protect the human rights to water and sanitation for these individuals and groups.

F. Recommendation on maintenance and operation of services

RECOMMENDATION 11: “Invest, including human resources, in the maintenance and operation of new and existing services in order to avoid deterioration in the services currently provided and provide financial and technical support to the districts” (A/HRC/33/49/Add.3, para. 72(n))

44. In order to conform with the normative content of the rights to water and sanitation, states must ensure the sustainability of the services that are provided. In this regard, and in light of the current condition of Botswana’s water and sanitation services and infrastructure, the Special Rapporteur noted that care must be taken to prevent existing services from falling out of order, whilst investing in new infrastructure to promote the rights to water and sanitation (A/HRC/33/49/Add.3, paras. 43-44).

45. In its response to the country visit report the Government accepted the efficacy of this recommendation and stated that the Ministry of Minerals, Energy and Water Resources requested additional funding for the restoration of dilapidated water and sanitation infrastructure (A/HRC/33/49/Add.6, para. 34). Equally, in its comments made in relation to the follow-up questionnaire, the Government noted that “Botswana has secured a loan from the World Bank of a sum of USD\$146m to refurbish, rehabilitate and develop infrastructure

¹⁴ United Nations Children’s Fund, “Assessment of the Orphan Care Programme, Botswana”, 2016, pp. 28, 34
https://www.unicef.org/evaldatabase/files/Assesment_of_OVC_Programme_Print_Botswana_2016-001.pdf.

of water and sanitation. This includes eleven water supply projects and three wastewater projects which are currently ongoing at different stages of implementation. In addition some water and sanitation projects are financed through the National Development Plan.”

46. The Special Rapporteur regards it as positive that funds have been allocated for the refurbishment, rehabilitation and development of the infrastructure of water and sanitation. However, plans of the maintenance and operation were not shared and he unfortunately did not receive any concrete information about human resources to be invested in maintenance and operation either. The Special Rapporteur reaffirms that human resource investment is vital to the achievement of proper maintenance and operation of water and sanitation infrastructure, and is therefore essential to ensuring sustainability in line with the normative content of the rights to water and sanitation.

PROGRESS ON-GOING: The Special Rapporteur recommends that the Government continue to invest the maximum of its available resources into refurbishing, rehabilitating and developing water and sanitation infrastructure. He reaffirms that budgeting must include adequate human resource investment and invites the Government to make public information regarding the level of human resources investment it has made in these sectors to date.

G. Recommendation on public institutions

RECOMMENDATION 12: “Improve access to water, sanitation and hygiene in schools, in particular install menstrual hygiene management systems in all schools, as well as in health centres.” (A/HRC/33/49/Add.3, para. 72(p))

47. In the Special Rapporteur’s country report, it was noted that there was a lack of adequate water, sanitation and hygiene facilities in both schools and health centres in Botswana. In particular, few accommodations had been made for women and girls by providing facilities to allow them to safely and hygienically manage their menstrual cycles. (A/HRC/33/49/Add.3, para. 52)

48. According to the Joint Monitoring Programme of UNICEF and WHO, as of December 2015 only limited water and sanitation facilities existed within both primary and secondary schools in Botswana, meaning that drinking water comes from an improved source, however it is unavailable, and either “flush/pour flush toilets, ventilated improved pit latrines, composting toilets [or] pit latrines with a slab or platform” are present, but these are unusable or not single-sex. No data was available regarding the quality of sanitation facilities present in schools. Equally, according to Alliance Defending Freedom International, the availability of water and sanitation in healthcare facilities in the country is of significant concern, with it being noted that this was a contributory factor in the high maternal death rate (A/HRC/WG.6/29/BWA/3, para. 35).

49. Following the presentation of the visit report, the Government responded accepting the recommendation to provide facilities to promote menstrual hygiene in all schools and health centres. In its response to the Special Rapporteur’s follow-up questionnaire the Government contended that most schools in the country had water infrastructure, including emergency reservoirs to ensure availability in droughts. It further stated that the majority of schools now have disposal facilities for sanitary products, either by way of storage bins or pit latrines.

50. The Special Rapporteur is pleased to note that the Government has acknowledged the importance of ensuring women and girls are able to access facilities for the management of menstruation in school. Having places for the disposal of sanitary products will assist women and girls to access education and can reduce the negative health impacts associated with inadequate menstrual hygiene caused by lack access to proper facilities. No information has been provided regarding the improvement of menstrual hygiene facilities in health centres, however, and the Special Rapporteur reminds the Government that provision of these facilities in hospitals and clinics is equally important. The Special Rapporteur is also pleased that the availability of water in schools has improved, and that efforts have been taken to ensure that water remains available in schools, even in cases of drought. However, it is clear

that there is still room for further progress in this area, as access to safe water should be available in all schools in Botswana, rather than most. He notes that the Government has provided no information about access to sanitation in schools, and on access to both water and sanitation in healthcare facilities.

PROGRESS ON-GOING: The Special Rapporteur urges the Government to continue with its efforts to increase water availability in schools, with the goal of ensuring every school in Botswana has access to a continuous supply of safe water. He further recommends that the Government ensure that all schools are provided with appropriate menstrual management facilities and that students and staff have access to adequate sanitation at all times. Additionally, he calls on the Government to publicly disclose data regarding its efforts to improve access to water, sanitation and menstrual hygiene facilities in healthcare institutions, recalling that provision of these therein is vital for the achievement of the rights to water and sanitation, as well as other human rights.

V. Access to information, accountability and justice

51. Access to information, accountability and access to justice are central for the progressive realization of the human rights to water and sanitation and all the other rights, and are mutually reinforcing. The right to information includes the right to receive information to make informed decisions regarding the human rights to water and sanitation. Independent civil society plays a critical role in all of these principles and in the protection of human rights.

A. Recommendation on the right to information and accountability

RECOMMENDATION 13: “Strengthen access to information, including by setting a standard rule on the communication of water and sanitation-related measures taken by the Government to enable people to make informed decisions regarding the human rights to water and sanitation.” (A/HRC/33/49/Add.3, para. 72(q))

52. During his visit to Botswana, the Special Rapporteur was concerned by the lack of adequate processes to ensure pertinent information regarding water and sanitation was received by individuals and communities. Whilst some efforts had been taken, including the dissemination of information through print media, radio and online, there was no standardised method for providing people with this information. Accordingly, a lack of clarity was notable regarding important policies such as water rationing. Additionally, it was identified that, owing to the lack of a regulatory body to monitor human rights in Botswana, including the rights to water and sanitation, access to justice and accountability for breaches of these rights were limited (A/HRC/33/49/Add.3, paras. 45-48).

53. With regards to the need for Botswana to improve its information delivery systems to ensure access to information regarding water and sanitation, the Government replied that “Botswana is currently developing a National Spatial Plan System which will capture all spatial data inclusive of water and sanitation services. Upon completion, the system will strengthen individual access to information regarding water rights, water use etc.” Furthermore, the Government, as part of its National Development Plan 11, has implemented an information and communication technology strategy for the years 2017-2023, which incorporates a number of different elements and that is “intended to support all sectors of the economy and in particular will be used to address the needs of the key priority areas of water [...]”¹⁵

54. Whilst these potentially represent inroads towards the goal of ensuring the population in Botswana have greater access to information, it is, unfortunately unclear to the Special Rapporteur exactly how the application of a national information and communications

¹⁵ Republic of Botswana, National Development Plan 11: April 2017 – March 2023 (Draft). Volume 1, Ministry of Finance and Development Planning, September 2016. Consulted 4 Sep. 2018, <http://www.ncongo.info/wp-content/uploads/2017/02/NDP-11.pdf>.

technology strategy, as well as the spatial organization of information on water and sanitation, will operate, and, accordingly, whether it will in fact strengthen individuals' access to information on water and sanitation services. Furthermore, despite these strategies having been active from 2017, it is notable that the Special Rapporteur on minority issues, who officially visited Botswana in August 2018, has also observed the lack of availability of information generally, particularly in the languages of minority groups (A/HRC/40/64/Add.2).

LIMITED PROGRESS: The Special Rapporteur continues with the view that the Government needs to take concrete measures to improve access to information on issues related to the human rights to water and sanitation, in particular for people living in rural areas, in transition from nomadic life and in resettlements and those who are minorities. He recommends that the Government increases its efforts in this regard and clearly publish how it intends to ensure information is accessible regarding water and sanitation, so as to allow its plans to be properly assessed.

B. Recommendation on strengthening access to justice

RECOMMENDATION 14: “Strengthen the rights to access to justice and accountability, including by accelerating the efforts of the Office of the President to amend the Ombudsman Act to include the role of a human rights institution.” (A/HRC/33/49/Add.3, para. 72(r))

55. In relation to the Special Rapporteur's recommendation on improving access to justice, during the National Development Plan 10 (2009-2016), the Government made a decision to expand the mandate of the Office of the Ombudsman to include human rights. In the National Development Plan 11 (2017-2023), it is stated that “[t]he existing legislation will therefore be reviewed during National Development Plan 11 to expand the mandate of the Ombudsman to cover human rights, as well as to grant the Office sufficient powers to deliver on its mandate.”¹⁶

56. However, according to the Government, the Ombudsman Act is still to be reviewed, and therefore no amendments that afford the Office of the Ombudsman with a broader mandate to consider human rights have yet been implemented.

57. The Special Rapporteur welcomes the goal included in the National Development Plan 11 to expand the mandate of the Ombudsman to cover human rights and to grant the Office sufficient powers to deliver on its mandate. While it is understandable that the review of legislation takes time, the Special Rapporteur reiterates that strengthening the Ombudsman and strengthening access to information, accountability and access to justice, are crucial for the progressive realization of the human rights to water and sanitation, as well as all other human rights.

PROGRESS ON-GOING: The Special Rapporteur recommends that the Government continues to pursue legislative change regarding the expansion of the mandate of the Ombudsman to cover human rights, and the increasing of its powers to ensure human rights are properly respected, protected and fulfilled. He urges the Government to finalise this legislation as soon as is possible.

VI. Leaving no one behind

58. States parties have a special obligation to provide those who do not have sufficient means with necessary water and sanitation services and to prevent any discrimination on internationally prohibited grounds in the provision of those services.¹⁷ The individuals and groups that States must target to address discrimination are usually the most marginalised,

¹⁶ Republic of Botswana, National Development Plan 11: April 2017 – March 2023 (Draft). Volume 1, Ministry of Finance and Development Planning, September 2016. Consulted 4 Sep. 2018, <http://www.ncongo.info/wp-content/uploads/2017/02/NDP-11.pdf>.

¹⁷ See General Comment 15 of the Committee on Economic, Social and Cultural Rights, para. 15.

excluded, stigmatised and disadvantaged, both in their access to water and sanitation, and in society as a whole.

A. Recommendations on access to water and sanitation by people that are left behind

RECOMMENDATION 15: “Revisit the National Settlement Policy in view of providing equal access to water and sanitation for all, regardless of where they live.” (A/HRC/33/49/Add.3, para. 72(i))

RECOMMENDATION 16: “Establish clear budget lines to provide assistance to the water and sanitation systems that are not connected to the central network, particularly in urban periphery, rural and remote areas.” (A/HRC/33/49/Add.3, para. 72(l))

59. At the time of his visit, there existed in Botswana a distinct disparity in water and sanitation service availability and adequacy between urban and rural areas, which, it was noted, was in part caused by the operation of the National Settlement Policy. To fix this inequality of access, the Special Rapporteur identified the need to revisit the National Settlement Policy and to provide greater funding for ensuring access to water and sanitation for resettled populations (A/HRC/33/49/Add.3, paras. 55-57).

60. In its response to the question posed by the Special Rapporteur in the follow-up questionnaire, which asked the Government to describe any measures it had taken to revisit the National Settlement Policy, the Government replied that it is “committed to ensuring that every Moptswana has access to basic social services wherever they are. To that effect, Government has developed a ten (10) years (2015-2025) Affirmative Action Framework for Remote Area Communities with Goal 4 of the Framework ensuring access to social and basic services which include amongst others, provision of potable water and improved access to adequate sanitation services.” The response noted that the main aims of Goal 4 are to provide water for drinking and for livestock needs in remote areas; to provide adequate sanitation amenities; and to provide services for the management of sanitation and wastewater. Under the framework, efforts are coordinated by the Ministry of Local Government and Rural Development and individual sectors must submit a progress report every quarter. Furthermore, during the Universal Periodic Review on Botswana, civil society stated that Botswana “had created the Remote Area Development Programme which benefits people living more than 15 km outside of villages. Those with no water, access to land, or access to other services such as healthcare and education qualify for support within this Programme. Qualifying citizens receive five cattle or fifteen goats, and children are provided with food, toiletries, bedding, and transportation to school.”¹⁸

61. In its submission to the Committee on the Elimination of All Forms of Discrimination against Women, the Government reported that “[O]verall improvements have been registered in water access as about 774,000 people received improved water supply in the rural areas in 2015 as compared to 752,000 in 2013. The policy on agriculture and rural development currently in formulation stage, aims to target the issue by prioritizing access to natural resources, particularly water, as a way to improve the situation of rural women in Botswana.”¹⁹ The increase in the number of people in rural areas receiving improved water is a positive step, and evidences the compliance of the Government with its obligation to progressively realise the human right to water for these people.

62. According to the report of the Working Group of the Universal Periodic Review on Botswana in April 2018, “[p]rogress had been made in improving the lives of members of communities located in remote areas under the Affirmative Action Framework for Remote Area Communities. Consultations were ongoing with the communities in question, including those located around the Central Kalahari Game Reserve, regarding issues affecting them. Six boreholes had been drilled in the Central Kalahari Game Reserve for use by its residents

¹⁸ Summary of Stakeholders’ submissions on Botswana, A/HRC/WG.6/29/BWA/3, para. 46.

¹⁹ CEDAW/C/BWA/4, para. 166.

and plans were under way to increase that number. Furthermore, water containers with a capacity of 10,000 litres were filled on a monthly basis.” (A/HRC/38/8, paras. 13-14).

63. Regarding the budget line, the Government reported that “[o]f the P4,960,600,000 allocated to [the] water supply and sanitation programme, P3,947,494,687.00 has been allocated to the expansion of potable water coverage and development of waterborne sewerage system to serve all the existing and future development areas within the Maun, Moshupa, Molepolole and Kanye major villages with production of recyclable effluent.”²⁰

64. The Special Rapporteur is encouraged by the actions and budget allocation taken by the Government and regards it as positive that the Government of Botswana has begun implementing dedicated strategies to address water need in rural areas. The progress that has been made under these plans suggests that the Government is, as far as the right to water is concerned, seeking to progressively realise this right for non-urban dwellers. However, he notes that little information has been made available regarding the impact that the strategy has had on access to sanitation for rural people. At the same time, the Special Rapporteur is concerned about the pace of the current efforts to increase water and sanitation for rural Botswana, which are unlikely to lead to Botswana achieving Goals 6.1 and 6.2 of the SDGs by 2030. Furthermore, whilst the Special Rapporteur is pleased that Botswana has developed policies which consider the water and sanitation needs of those living in remote communities, he is concerned to learn that remote-area dweller settlements only become entitled to assistance, including being provided with water supplies, when the population is more than 250 persons, meaning that settlements with populations under this number may not have their water and sanitation needs met. The Special Rapporteur stresses that the Government must equally ensure that people living in rural areas are able to access adequate sanitation and that efforts to achieve this are implemented progressively, utilising the maximum of available resources. He therefore calls upon the Government to continue and accelerate its efforts also in order to ensure it can achieve Sustainable Development Goals 6.1 and 6.2 in fewer than 11 years.

RECOMMENDATION 15 – PROGRESS NOT STARTED: The Special Rapporteur notes that the Government has not revisited the National Settlement Policy.

RECOMMENDATION 16 – LIMITED PROGRESS: The Special Rapporteur is pleased that budgetary allocations have been made to improve access to water and sanitation in rural areas which are not connected to the central network. The results of this budgetary allocation on access to sanitation in rural areas are, however, unclear. Accordingly, the Special Rapporteur reminds the Government of its obligation to utilise the maximum of its available resources to improve water and sanitation access for people in rural areas, and advises it to publish data highlighting the impact of increased budgetary allocations on rural sanitation.

B. Recommendation on nomadic population

RECOMMENDATION 17: “Continue and strengthen dialogue with communities who are living a nomadic life or who are in transition from a nomadic to a sedentary life to find sustainable solutions for their access to water and sanitation.” (A/HRC/33/49/Add.3, para. 72(j))

65. During his visit to Botswana, the Special Rapporteur met with members of the San community, who are traditionally nomadic. He noted that the situation of water and sanitation for these communities was often precarious, and their needs were often not accounted for by the Government. For instance, even where some San community villages surpassed the 250-person requirement that should entitle them to be provided with basic services, no water

²⁰ According to the 2011 Population and Housing Census, Maun is a village (population 60,263 in 2011) and administrative centre of the North West District. Moshupa is a village in the Southern District (population 20,016 in 2011). Molepolole is a city in the Kweneng District, located approximately 60km from Gaborone (population 66,466 in 2011). Kanye is a village and the administrative centre of the Southern District (population 47,007 in 2011).

connections had been made available, partly because community members chose to remain outside of formal state structures in order to retain their traditional lifestyle and systems. Equally, many traditionally nomadic communities who are living on, or have returned to, reserve land have not been assisted with access to water and sanitation. (A/HRC/33/49/Add.3, paras. 58-62)

66. The Government responded to the Special Rapporteur's recommendation by noting that it continues to engage in "dialogue with communities who are transitioning from a nomadic to sedentary life" in order to find "sustainable solutions to their access to water and sanitation." It further noted that there exists a national Central Kalahari Game Reserve Committee which, each quarter, meets to discuss issues that are worrying the residents of the Reserve, and to engage with them about their access to basic services, including water and sanitation. The Committee is comprised of governmental permanent secretaries and it regularly meets with the Cabinet to discuss its findings. Furthermore, the Government noted that there is also an established Committee within Ghanzi District, which comprises Reserve representatives. The Ghanzi District Committee meets regularly to discuss the needs to the Reserve's residents, including those relating to water and sanitation. With regards to the measures that are in place to alleviate the difficulties experienced by Reserve residents in accessing water and sanitation, the Government noted that Ghanzi district "continues to bowse water into the game reserve and stores it in the 20,000 L containers as well as [ensuring] that those that are in the Social Protection programmes receive their dues monthly." It further stated that "the Committee had a meeting with the Assistant Minister of Local Government and Rural Development during the 3rd quarter of the last financial year and different political leaders and officials continue to meet with them as per need to improve their access to amenities. Boreholes have been drilled in the reserve and plans are underway to equip them."

67. Whilst these efforts to communicate with affected nomadic, formerly nomadic and semi-nomadic communities regarding their water and sanitation needs is positive, whether these efforts are being translated into an improvement of access to water and sanitation is of concern. Indeed, the report of the Special Rapporteur on minorities on his visit to Botswana, conducted from 13 to 24 August 2018, evidences that despite the Government outlining its communication and supply processes regarding the water and sanitation needs of traditionally nomadic people, these groups still suffer significant challenges in obtaining adequate water and sanitation services. In this regard, the report notes that "[w]hile inadequate access to water occurred in urban poor areas as well as rural poor areas, it was pointed out to the Special Rapporteur that such difficulties seemed to disproportionately affect settlements where certain nomadic and minority communities lived, including in particular San and other Basarwa communities. The Special Rapporteur was told of settlements with more than the 250 persons required to become a recognized settlement for the provision of basic services that still had no water connection." (A/HRC/40/64/Add.2, para. 57).

68. While the Special Rapporteur acknowledges the Government's attempts to engage in dialogue with nomadic, semi-nomadic, and formerly nomadic groups, it is unclear how those efforts are concretely translating into finding sustainable solutions for the access to water and sanitation of the nomadic groups. Although it is accepted that finding sustainable solutions to ensure access to adequate water and sanitation for these people may be challenging due to their wishes to remain outside of the Government's processes, the Special Rapporteur reiterates that it is essential for the Government to engage in positive dialogue with nomadic groups in order to determine how to implement water and sanitation strategies which are acceptable to their traditional way of life and which satisfy Botswana's obligations to respect, protect and fulfil the rights to water and sanitation.

PROGRESS ON-GOING: The Special Rapporteur strongly recommends that the Government continues to engage in dialogue with communities transitioning from nomadic to sedentary lives and translates that dialogue into appropriate policy and action that prioritizes access to water and sanitation for these people.

C. Recommendation on women and girls

RECOMMENDATION 18: “Increase the participation of women in decision-making relating to water and sanitation and take special measures to reduce the disproportionate burden on women caused by the lack of access to water and sanitation.” (A/HRC/33/49/Add.3, para. 72(o))

69. In his report, the Special Rapporteur addressed the particular difficulties faced by women and girls in Botswana in accessing adequate water and sanitation, and the burden of collecting water that hindered their ability to exercise their full complement of human rights. Furthermore, he noted that women and girls were disproportionately affected by a lack of access to water and sanitation. Despite this, women were rarely called upon to participate in decision-making regarding water and sanitation, and therefore their vital voices and experiences were at risk of being lost (A/HRC/33/49/Add.3, para. 63-65).

70. Following the visit, the Government has identified some efforts it has taken towards ensuring that women are given a more prominent voice in society, and that the issues affecting women are better addressed. In its periodical report, submitted to the Committee on the Elimination of Discrimination against Women, the Government stated that “[t]he Gender National Strategy adopted by the National Gender Machinery has prioritized the following national development areas for gender mainstreaming: [...] Social Protection and social services (health, adequate sanitation and improved well-being, access to quality education, training and information, safe housing and consideration for addressing issues of energy and climate change for a sustainable environment).²¹ Furthermore, the above mentioned project “Emergency Water Security and Efficiency Project” (May 2017 to May 2021) financed by the World Bank (USD \$145.5 million) and implemented by the Ministry of Finance and Economic Development, the Ministry of Land Management, Water and Sanitation, and the WUC, identified as one of its objectives the need to “create opportunities for women to participate in water committees and other community-based organizations and so contribute to a fairer gender balance in the management of water service.”²²

71. The Government also stated, in its response to the questionnaire, that “Botswana has appointed a gender focal point personnel, based at Department of Water Affairs, whose responsibility is to facilitate Gender Mainstreaming in the water and sanitation sector. The gender focal point personnel has been trained on dimensions of gender mainstreaming through the assistance of the Southern African Development Community and has conducted community training on gender mainstreaming in the water and sanitation at Bokspits village in 2015, through the assistance of the German Development Agency.”

72. The Special Rapporteur appreciates the efforts by the Government to appoint a gender focal point personnel for gender mainstreaming in the water and sanitation sector, and its implementation of other projects to increase the participation of women in decision-making. However, whilst it might have been premature to see the impacts of these efforts on women, the Special Rapporteur would have liked to have received information on the concrete positive impacts on women and girls’ role in collecting water, and particularly any measures to reduce the disproportionate burden imposed on women and girls to collect water, as well as their human rights.

LIMITED PROGRESS: The Special Rapporteur recommends that the Government continue to positively promote women’s involvement in water and sanitation decision-making. He further calls on the Government to properly assess the increased participation of women and the improvement of women and girls’ access to water and sanitation, reducing the disproportionate burden on women and girls caused by the inadequate access to water and sanitation.

²¹ CEDAW/C/BWA/4, para. 31.

²² World Bank, “Project Appraisal Document on a Proposed Loan in the Amount of US\$ 145.5 Million to The Republic of Botswana for a Botswana Emergency Water Security and Efficiency Project February 15, 2017”. Consulted 4 September 2018.
<http://documents.worldbank.org/curated/en/363411488682883157/pdf/Botswana-PAD-02172017.pdf>.