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Special Rapporteur on the human right to safe drinking water and sanitation

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**HUMAN
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Dear Special Rapporteur Heller,

Please accept our submission in response to your request for information related to your annual thematic report that will focus on gender equality.

Human Rights Watch is an independent, international organization that works to uphold human dignity and advance the cause of human rights for all. Human Rights Watch has included research on water access and water disputes in its human rights reporting as early as 1999, with recent research focused on the rights to water and sanitation.

Human Rights Watch research from around the world illustrates the many ways in which inadequate access to water and sanitation, and a poor environment for good hygiene, has specific impacts on women and girls and undermines many of their human rights. This includes their rights to an adequate standard of living, education, health, work, freedom from violence, and non-discrimination. This submission focuses on research that demonstrates the impact on women and girls when governments fail to accommodate biological differences (including with respect to menstruation, pregnancy, and childbearing) within measures to fulfill the rights to water and sanitation, and when socio-cultural gender norms present barriers to the realization of these rights. It addresses these issues (1) in specific contexts, and (2) for particularly marginalized populations.

Gender, Water, and Sanitation in Context

1. Schools and Education

Human Rights Watch research demonstrates that water, sanitation, and hygiene conditions both at home and school can affect girls' access to

education. When water is not available in the house, the burden of collecting water outside the house falls disproportionately on women and girls. Poor access to water and sanitation at school may also prevent girls from managing their hygiene during menstruation.

Girls who are tasked with collecting water for their households may miss valuable school time in order to complete everyday tasks. For example, in 2014 Human Rights Watch conducted research on the impact of decreased water availability due to climate change and other environmental threats at a girls' school in Turkana County, Kenya. The girls said they walked several kilometers every day to reach a dry riverbed where they dig for water and then transport 25-liter jerry cans back to school. Such onerous tasks take away from time girls could be in school learning and keeping up with their male classmates.¹

In a report entitled "Troubled Water: Burst Pipes, Contaminated Wells, and Open Defecation in Zimbabwe's Capital," based on research conducted in 2012 and 2013 in Harare, Human Rights Watch found that restricted access to potable water and sanitation services had devastating consequences for people living in the city, and left people desperate for access to quality water. One family reported that they worried that if their out-of-school granddaughter went back to school, the family would struggle to get their water.²

Girls in school may miss parts or all of school days due to lack of sanitation facilities, materials, and puberty and hygiene information that would allow them to manage their menstruation. Private and clean sanitation facilities are essential to ensuring girls can manage their hygiene during menstruation, without disruption to their education. Human Rights Watch spoke with girls in Haiti who leave school to go home to wash and change the materials they use to manage their menstruation, because they cannot do that at school. This caused some to miss as much as 30 minutes of instruction every time they needed to change their materials.³ Teachers told Human Rights Watch that girls sometimes stay at home during menstruation because they have no option to manage their hygiene at

¹ Human Rights Watch, "*There is No Time Left": Climate Change, Environmental Threats, and Human Rights in Turkana County, Kenya*, October 2015, <https://www.hrw.org/report/2015/10/15/there-no-time-left/climate-change-environmental-threats-and-human-rights-turkana>.

² Human Rights Watch, *Troubled Water: Burst Pipes, Contaminated Wells, and Open Defecation in Zimbabwe's Capital*, November 2013, <https://www.hrw.org/report/2013/11/19/troubled-water/burst-pipes-contaminated-wells-and-open-defecation-zimbabwes>.

³ Written Statement of Amanda Klasing to the Tom Lantos Human Rights Commission of the United States Congress, Hearing on "Aid Delivery in Haiti: Development Needs, Capacity Building and Challenges", December 3, 2014, <https://www.hrw.org/news/2014/12/03/written-statement-amanda-klasing-womens-rights-researcher-tom-lantos-human-rights>.

school.⁴ A lack of access to adequate materials to manage menstruation, such as menstrual pads or cups which may beyond the financial reach of some students, also means that some girls may stay at home while menstruating due a fear of leakage and embarrassment in front of classmates.

2. Humanitarian Disasters, Immigration Facilities, and Displacement Camps

International standards extend the rights to water and sanitation to persons fleeing conflict or disaster, migrating for work, or who are displaced for other reasons.⁵ Yet Human Rights Watch research demonstrates that sanitation systems in camps and facilities for camp or shelter residents are often inadequate, and it is difficult for many female refugees, migrants, or internally displaced women and girls to realize these rights. In addition to a lack of access to adequate and private sanitation facilities to properly manage menstrual hygiene, women and girls who find themselves displaced and living in temporary shelters and camps may face danger when fulfilling basic personal hygiene and sanitation needs. Water and sanitation facilities may be located far away from the general population in unsafe areas, which increases vulnerability to gender-based violence on long treks to collect water or bathe.

Women and girls in displacement camps in Haiti told Human Rights Watch about constant harassment by boys and men when they used insecure bathing facilities. They described being pinched, poked, or leered at in the displacement camps when they washed themselves out in the open, because there was no safe and private place to bathe.⁶ Similarly, Human Rights Watch received reports that in some temporary shelters in India a year after the 2004 tsunami, women and girls had resorted to walking in pairs to and from community toilet and bathing facilities to ward off harassment from men.⁷

Human Rights Watch found similar concerns about the absence of privacy in displacement camps in Sri Lanka. Soldiers and police infringed on the privacy of women by watching

⁴ Written Statement of Amanda Klasing to the Tom Lantos Human Rights Commission of the United States Congress.

⁵ See, for example, UN Committee on Economic, Social and Cultural Rights, General Comment No. 15, The Right to Water, U.N. Doc. E/C.12/2002/11 (2003), para. 16(f). See also, UN Guiding Principles on Internal Displacement, Principle 18, and ILO Recommendation No. 115 of 1961 on Worker's Housing, n. 7 and 8.

⁶ Written Statement of Amanda Klasing to the Tom Lantos Human Rights Commission of the United States Congress; see also, Human Rights Watch, "*Nobody Remembers Me": Failure to Protect Women's and Girls' Right to Health and Security in Post Earthquake Haiti*, August 2011, p.68, http://www.hrw.org/sites/default/files/reports/haiti0811webwcover_0.pdf.

⁷ Human Rights Watch, *After the Deluge: India's Reconstruction Following the 2004 Tsunami*, May 2005, <http://www.hrw.org/print/reports/2005/05/25/after-deluge>.

them when they bathed or used the toilet.⁸ In at least one case, this harassment led to sexual violence.⁹

In UN camps for displaced people in South Sudan, where fighting in 2015 has prompted about 100,000 people in Unity state to flee their homes, women and girls face grave risks when attempting to collect water and use the bathroom. Service providers at the UNMISS base in Bentiu, as well as women and girls, told Human Rights Watch in 2015 that there are numerous risk factors that make them vulnerable to violence in the camps, including rape.¹⁰ Although UN peacekeepers protect the camp, women and girls remain at risk of sexual violence inside the camp.¹¹ Women have reported that they feel at risk using the latrines at night, where there is no lighting.¹²

At the UNMISS base in Bentiu, women and girls also experienced violence at times when collecting water. Women, who often have to wait in line for hours to get water and sometimes arrive at water distribution lines before dawn, described being vulnerable to abuse from young men drinking alcohol at the markets. A woman who works at and lives next to a water distribution line told Human Rights Watch that one night in 2015 she heard women screaming and running. When she looked out of her house, she saw men with big sticks and machetes running near the water line. Since then, most women have stopped coming to fetch water before 7 a.m.¹³ Another woman told Human Rights Watch that three youths dragged her pregnant relative away from a different water line and raped her in 2015.

In addition to these threats to physical safety, women and girls living in migration facilities and displacement camps may not have access to adequate and private sanitation facilities to relieve themselves or properly manage menstrual hygiene. Facilities may be insufficient in number, located in unsafe locations, and inadequate in offering privacy. Women and girls living in displacement camps in India told Human Rights Watch a year after the 2004 tsunami that they did not have proper, safe, and private toilet or bathing facilities. One woman pointed to some shrubs behind the shelter and said that is what she and her daughters used as a toilet.¹⁴ Likewise in Haiti after the 2010 earthquake, Human Rights

⁸ Human Rights Watch, “*We Will Teach You a Lesson*”: Sexual Violence against Tamils by Sri Lankan Security Forces, February 2013, p. 37,

http://www.hrw.org/sites/default/files/reports/srilanka0213webwcover_0.pdf.

⁹ Ibid.

¹⁰ Human Rights Watch, “*They Burned It All*”: Destruction of Villages, Killings, and Sexual Violence in Unity State South Sudan, July 2015, <https://www.hrw.org/node/279428>.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Human Rights Watch, *After the Deluge*.

Watch found that in the displacement camps, women and girls reported insufficient and unsafe sanitation facilities. Many complained of having terrible vaginal infections and were not able to manage their personal hygiene, particularly during menstruation.¹⁵ One woman recounted the fear she and other women experienced when trying to reach portable camp toilets in a distant, insecure area: "[w]e are scared. We have no security."¹⁶ Because of that, she sometimes avoided the camp toilets and instead defecated and changed menstrual materials in the open.

Displaced people are often excluded from decision-making about the location or layout of their communities. In some cases, this may increase the risk of ill health caused by environmental factors, including contaminated soil, air, and water. Human Rights Watch research on camps for internally displaced Roma in Kosovo documented how, in the wake of the 1999 conflict, many Roma were resettled in camps in a heavily contaminated area located near a defunct lead mine. The extreme lead contamination of the sites, which included lead contamination of water, damaged the health of the residents. Failure to provide systematic testing and treatment for lead contamination for displaced camp residents and to relocate the residents to a safe environment, especially for children and pregnant women, constituted a serious violation of the right to health.¹⁷ Public health authorities recognize that there is no safe level of lead exposure. Pregnant women and children are particularly vulnerable to lead poisoning. In pregnant women, it can cause premature birth, low birth weight, or damage the fetus' developing brain. No safe blood lead level in children has been identified.¹⁸

3. Resettled Communities

When governments resettle or facilitate resettlement of households to new areas, for example, in connection with infrastructure projects or commercial investments, people's ability to access water may be curtailed. This change in access to water may have distinct effects on women who are disproportionately tasked with household chores involving

¹⁵ Written Statement of Amanda Klasing to the Tom Lantos Human Rights Commission of the United States Congress.

¹⁶ Amanda Klasing, Menstrual Hygiene Day Links Periods and Human Rights, *WENews*, May 28, 2014, <http://womensenews.org/story/reproductive-health/140527/menstrual-hygiene-day-links-periods-and-human-rights> (accessed February 13, 2016).

¹⁷ Human Rights Watch, *Kosovo: Poisoned by Lead: A Health and Human Rights Crisis in Mitrovica's Roma Camps*, June 2009, <https://www.hrw.org/report/2009/06/23/kosovo-poisoned-lead/health-and-human-rights-crisis-mitrovicas-roma-camps>.

¹⁸ [US] Department of Health and Human Services, Agency for Toxic Substances and Disease Registry, "Toxicological Profile for Lead," August 2007, <http://www.atsdr.cdc.gov/toxprofiles/tp13.pdf> (accessed February 13, 2016), p. 10.

water and sanitation. Human Rights Watch research on the Rogun Dam in Tajikistan found that in communities in several districts, resettled because of the dam construction, residents lacked continuous and sufficient water for drinking, household use, and irrigation, with availability limited to a few hours per day. In one district, residents did not have water physically accessible in their homes, but had to walk past several neighboring houses to retrieve water using buckets.¹⁹ These new challenges in accessibility were in contrast to their old villages, where they accessed continual spring-fed water in the immediate vicinity of their homes without charge.

Human Rights Watch research in Mozambique also documented the effects of resettlement upon communities' access to water. In coal-rich Tete province, local communities resettled due to coal operations owned by international mining companies faced significant and sustained disruptions in accessing water for drinking, domestic use, and agricultural use.²⁰ Residents, who used to rely on their proximity to rivers, were moved to arid areas with a shortage of natural water resources. Although water pumps were installed and trucks were used to bring in water to address the lack of natural resources in the resettlement areas, residents were not provided with free, reliable, and easily accessible water sources. For example, resettled individuals told Human Rights Watch that the neighborhood pumps did not provide a sufficient quantity of water, were unreliable, and sometimes fell into a state of disrepair.²¹

In Sierra Leone, Human Rights Watch found a similar situation when the government and London-based African Minerals Limited forcibly relocated hundreds of families from verdant slopes to a flat, arid area in Tonkolili District.²² The relocated Sierra Leoneans experienced a decline in their living standards because water was less abundant in their new location than where they had previously lived. Residents, accustomed to have water flow through their community, said they were promised houses with piped water upon relocation. Instead, they received water from trucks or had to pump water from boreholes, and there was not enough water for consumption or sanitation, the villagers said.²³

¹⁹ Human Rights Watch, "*We Suffered When We Came Here*": Rights Violations Linked to Resettlements for Tajikistan's Rogun Dam, June 2014, <https://www.hrw.org/report/2014/06/25/we-suffered-when-we-came-here/rights-violations-linked-resettlements-tajikistans>.

²⁰ Human Rights Watch, "*What is a House without Food?*" Mozambique's Coal Mining Boom and Resettlements, May 2013, <https://www.hrw.org/report/2013/05/23/what-house-without-food/mozambiques-coal-mining-boom-and-resettlements>.

²¹ Ibid.

²² Human Rights Watch, *Whose Development? Human Rights Abuses in Sierra Leone's Mining Boom*, February 2014, <https://www.hrw.org/report/2014/02/19/whose-development/human-rights-abuses-sierra-leones-mining-boom>.

²³ Ibid.

4. Detention Facilities, Prisons, and Jails

In detention and other confinement facilities, water and sanitation may be severely restricted and inadequate for women and girls. In Thailand, one mother described conditions that she and her four daughters experienced in immigration detention – where there were only 3 toilets for 100 detained migrants. Her teenage daughter avoided using the toilets since they had no doors or privacy.²⁴

Without adequate access to private toilet and bathing facilities, women and girls in detention settings may also experience a heightened risk of sexual harassment and violence. States have an obligation to ensure that bathrooms in detention facilities are safe, yet they are often the site of sexual violence and harassment. For example, guards at an immigration detention facility in the United States used a camera phone to take pictures of women detainees leaving the shower and the bathroom.²⁵ A 17-year-old Somali girl seeking asylum and detained in Ukraine reported similar harassment, but by other detainees: “The boys and girls are in one place. The boys were all Afghans... They tried to spy on me in the shower. There were up to six girls and 30 to 40 boys. We didn’t go to the toilet freely. They stood and smoked and we were scared... I was afraid repeatedly.”²⁶

When Uzbek police arrested Elena Urlaeva, a leading human rights defender in Uzbekistan, they sexually assaulted her, conducting a vaginal and rectal cavity search that caused her to bleed.²⁷ They then restricted access to the toilet, and sexually harassed her when she did try to relieve herself. She explained:

I needed to use the toilet but they would not allow me and so I asked for a bucket but they said “you’ll go outside and we will film you bitch and if you complain about us then we’ll post the video of your naked ass on the

²⁴ Human Rights Watch, *Two Years with No Moon: Immigration Detention of Children in Thailand*, September 2014, p. 2, http://www.hrw.org/sites/default/files/reports/thailand0914_ForUpload_0.pdf.

²⁵ Human Rights Watch, *Detained and at Risk: Sexual Abuse and Harassment in United States Detention*, August 2010, p. 13, <http://www.hrw.org/sites/default/files/reports/us0810webwcover.pdf>, citing Office of Inspector General, DHS, “Treatment of Immigration Detainees Housed at Immigration and Customs Enforcement Facilities,” December 2006, https://www.oig.dhs.gov/assets/Mgmt/OIG_07-01_Dec06.pdf (accessed January 27, 2016), p. 29.

²⁶ Human Rights Watch, *Buffeted in the Borderland: The Treatment of Migrants and Asylum Seekers in Ukraine*, December 2010, p. 77, <http://www.hrw.org/sites/default/files/reports/ukraine1210WebVersion.pdf>.

²⁷ Human Rights Watch, *At Your Own Risk: Reprisals against Critics of World Bank Group Projects*, June 2015, <https://www.hrw.org/report/2015/06/22/your-own-risk/reprisals-against-critics-world-bank-group-projects>.

internet.” I couldn’t stand it any longer and was forced to relieve myself outside in the presence of police officers who filmed me.²⁸

Urlaeva said she had “never experienced such humiliation in [her] life.”²⁹

Women and girls in detention may also face restrictions in accessing adequate materials to manage menstruation. Women at several immigration detention facilities in the United States described to Human Rights Watch arbitrary and humiliating limitations on access to sanitary pads. U.S. Immigration and Customs Enforcement (ICE) standards state that facilities will issue feminine-hygiene items on an as needed basis. However, a number of women told Human Rights Watch that officers would distribute a certain quantity of pads (two to six), and obtaining more “as needed” posed a challenge. Women described the embarrassment and frustration of not having sufficient materials to manage their menstruation, and the dismissive behavior of the detention officials when they raised concerns.³⁰

Similarly, in Zambia, a prison inmate named Catherine, 38, told Human Rights Watch, “[t]he prison does not provide us with soap, toothpaste, or sanitary pads. If others don’t bring them for us, we have nothing.”³¹ Instead, she said detainees in the prison must rely on family members, church donations, or exchange sex or labor to obtain sanitary pads and other essential hygiene products.³²

In addition to a lack of adequate materials, women in prisons, jails, and detention centers may have limited access to sanitation facilities to meet basic hygiene while menstruating. Toilets and showers may be overcrowded and insufficient in number to meet the needs of women in the facilities, resulting in an increased risk of infection and vaginal diseases from irregular bathing.

5. Hospitals and Health Care Facilities

Mothers who have recently given birth and may need time to heal from obstetric emergencies, including fistula surgery or other complications arising from labor, are also especially susceptible to risk of infection related to a lack of adequate access to quality water, sanitation, and hygiene. Even in large district hospitals throughout the world, there

²⁸ Ibid.

²⁹ Ibid.

³⁰ Human Rights Watch, *Detained and Dismissed*, pp. 48-50.

³¹ Human Rights Watch, *Unjust and Unhealthy: HIV, TB, and Abuse in Zambian Prisons*, April 2010, p. 42, <https://www.hrw.org/sites/default/files/reports/zambia0410webcover.pdf>.

³² Ibid.

are non-functional and unhygienic toilets in maternity and surgery recovery wards. In Kenya, for example, Human Rights Watch interviewed women recovering from fistula operations in a district hospital maternity ward.³³ There were several toilets some distance away from the ward, but none could flush, and some were overflowing with feces. Sometimes district hospitals had to absorb maternity patients because health facilities in remote areas had no water, and could not perform deliveries without it. Without access to quality water and sanitation in hospitals and other facilities, both patients and newborns face a heightened risk of contracting preventable illnesses.

6. Locations Severely Affected by Drought and Climate Change

The increased pressure on water resources brought about by climate change and longer and more regular droughts has disproportionately affected women and girls who are tasked with securing water. Without access to consistent sources of water, women and girls often must walk longer distances and wait in line to secure water from alternative or diminished sources, taking away valuable time from their day.

Human Rights Watch research in Turkana, Kenya, where access to water for consumption, basic household needs, and livestock is critical for the lives and livelihoods of the Turkana indigenous people, found that prolonged and frequent droughts had severe negative consequences, especially for pastoralist communities who relied on water sources.

Women and girls have to travel far distances—often several times a day—to collect water in order to cook, clean, and bathe. One woman stated that “[w]hen God grants us rainfall, that’s when we access water at the banks of the river or by digging shallow wells. Now, during the dry season, we have to walk to the lake, which takes more than half a day. It is far.”³⁴ Another woman in Turkana who was nine months pregnant told Human Rights Watch of the long distance she had to walk, sometimes twice daily, in order to get water during the dry season from a riverbed where she could dig for water.³⁵

7. Workplaces

Adequate water and sanitation facilities in workplaces are necessary components of the right to safe and healthy working conditions.³⁶ Harsh working conditions, long hours

³³ Human Rights Watch, “*I Am Not Dead, But I am Not Living*”: Barriers to Fistula Prevention and Treatment in Kenya, July 2010, <https://www.hrw.org/report/2010/07/15/i-am-not-dead-i-am-not-living/barriers-fistula-prevention-and-treatment-kenya>.

³⁴ Human Rights Watch, “*There is No Time Left*.”

³⁵ Ibid.

³⁶ ILO Convention No. 161 of 1985 on Occupational Health Services, art. 5.

without breaks, or excessively high production quotas can make toilets inaccessible to workers, particularly in factories and on farms.

Garment factory workers in Cambodia described the challenge of not being able to access the toilet when working long shifts.³⁷ Without appropriate time for water and bathroom breaks, managing menstruation proves challenging and increases the risk of vaginal infections and other complications.

Female agricultural workers also face difficulties managing menstruation when private and adequate sanitation facilities, as well as water sources for handwashing, are unavailable on the farms and fields where they work. They may have little choice but to change menstrual materials in unsuitable locations that lack privacy and adequate protection against infection.

Human Rights Watch research on tobacco farms in the US also demonstrates how lack of or inconsistent access to private and safe bathrooms impact women and girls working on farms. A 17-year-old girl, who had worked on tobacco farms in North Carolina since age 12, told us, “If you have to go, there’s the woods...First time I was out in the field, I told my mom I have to go pee. And my mom was like, ‘You have to go in the woods.’ But I was scared. I didn’t want to. My mom said, ‘You can’t go all day like that.’ I said, ‘What if a snake comes out?’”³⁸

Lack of access to sanitation facilities on farms also creates unique challenges for women and girls, especially while they are menstruating and need private facilities to change menstrual materials. Ines R. told Human Rights Watch, “I have to wait. It’s embarrassing. Especially because we’re girls, we’re not the same as guys, we need more privacy.... We work with different people. Some take restrooms out there, and some don’t.” When asked how she coped with working on farms where there wasn’t a restroom, she said, “I don’t know, it just isn’t comfortable, and especially when you’re on your days [menstruating]. It’s one of the worst things a girl has to go through.”³⁹

Lack of safe toilets can also be a barrier to women’s employment. In Afghanistan, the Ministry of the Interior acknowledged to Human Rights Watch that the lack of safe toilets and changing facilities might be barriers to women joining the police force—which in turn

³⁷ Human Rights Watch, “Work Faster or Get Out”: *Labor Rights Abuses in Cambodia’s Garment Industry*, March 2015, p. 7, <http://www.hrw.org/reports/2015/03/12/work-faster-or-get-out-0>.

³⁸ Human Rights Watch, *Tobacco’s Hidden Children: Hazardous Child Labor in United States Tobacco Farming*, May 2014, p. 70-71, http://www.hrw.org/sites/default/files/reports/us0514_UploadNew.pdf.

³⁹ Human Rights Watch interview with Ines R., 17, and Jane R., 15, Wayne County, North Carolina, July 18, 2015.

had a significant impact on how police respond to crimes against women and girls.⁴⁰ An international advisor working closely with female Afghan police officers told Human Rights Watch that “[t]oilets are a site of harassment.”⁴¹ Unsafe toilets and changing areas open Afghan police women up to sexual harassment and assault. According to the advisor, “[t]hose facilities that women do have access to often have peepholes or doors which don’t lock. Women have to go [to the toilets] in pairs.”⁴²

Marginalized Populations of Women and Girls

Without accommodations for their unique needs, marginalized populations of women and girls—including transgender and gender non-conforming individuals and women and girls with disabilities—face challenges in realizing their rights to water, sanitation, and hygiene. These challenges in accessing water and sanitation may undermine their ability to realize a wide-range of other human rights.

1. Gender Identity Recognition

Transgender and gender non-conforming people confront extremely high rates of violence and discrimination in their daily lives. Every encounter with a system that segregates by gender—ranging from a document checkpoint to toilet facilities to detention facilities—poses risk and humiliation, pitting their right to security against their right to freedom of expression. While some countries have made progress on respecting the rights of transgender people to be recognized before the law in the gender with which they self-identify, the vast majority of governments impose prohibitive obstacles to changing one’s gender on legal documents or do not allow such changes at all.⁴³ Restrictive legal gender recognition policies severely impact transgender peoples’ ability to access basic services, including water and sanitation.

Absent legal recognition and associated protections according to their gender identity, the discrimination faced by transgender individuals can become particularly acute when using a toilet. Transgender individuals can face harassment and violence when forced to relieve themselves in restrooms where there is little to no privacy or that are not safe.

⁴⁰ “Afghanistan-Urgent Need for Safe Facilities for Female Police: Inadequate Facilities Imperil Women Officers,” Human Rights Watch news release, April 25, 2013, <https://www.hrw.org/news/2013/04/25/afghanistan-urgent-need-safe-facilities-female-police>.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Human Rights Watch, *Rights in Transition: Making Legal Recognition for Transgender People a Global Priority*, January 2016, <https://www.hrw.org/world-report/2016/rights-in-transition>.

Human Rights Watch research in schools with gender-segregated restrooms in Malaysia, the United States, and Japan has found that transgender students who are forced to use the toilet that corresponds with the sex they were assigned at birth suffer harassment and bullying, which can lead them to avoid attempting to access the toilet at all. For example, in recent interviews in schools around the United States, Human Rights Watch has found that transgender girls who use a boys' restroom and transgender boys who use a girls' restroom are highly vulnerable to bullying, harassment, and assault by other students.⁴⁴ Natasha, a 33-year-old transwoman in Malaysia, recalled to Human Rights Watch the harassment she suffered in secondary school when using the toilet: "I went to the boys' toilet but I was always disturbed there. The boys would prevent me from leaving the toilet. They would pinch me and touch me, and call me names..."⁴⁵ A transgender interviewee in South Africa told Human Rights Watch she was not allowed to use the school toilet according to her gender identity, forcing her to change schools.⁴⁶

The issue of accessing toilets can impact transgender adults as well. For example, Alina, a transgender woman in Ukraine, told Human Rights Watch that on one occasion, an employer discovered her identity as transgender because he observed her urinating. He subsequently sexually harassed her, leading her to quit her job.⁴⁷

Furthermore, without access to safe and private sanitation facilities, gender non-conforming individuals may decide to not use the bathroom at all, leading to potential health complications—including dehydration, bladder infections, urinary tract infections, and kidney problems.⁴⁸ A 2015 report co-published by UNDP, WHO, and the Asia-Pacific Transgender Network includes many cases of transgender people facing discrimination in or avoiding gender-segregated public toilets altogether out of fear. This was particularly

⁴⁴ Human Rights Watch Letter Re: South Dakota HB 1008 and the Rights of Transgender Students, January 26, 2016, https://www.hrw.org/news/2016/01/26/human-rights-watch-letter-re-south-dakota-hb-1008-and-rights-transgender-students/?utm_content=buffer6dbc&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer.

⁴⁵ Human Rights Watch, "*I'm Scared to Be a Woman": Human Rights Abuses Against Transgender People in Malaysia*, September 2014, <https://www.hrw.org/report/2014/09/24/im-scared-be-woman/human-rights-abuses-against-transgender-people-malaysia>.

⁴⁶ Human Rights Watch. "*We'll Show You You're a Woman": Violence and Discrimination against Black Lesbians and Transgender Men in South Africa*, December 2011, <https://www.hrw.org/report/2011/12/05/well-show-you-youre-woman/violence-and-discrimination-against-black-lebrities-and>.

⁴⁷ Human Rights Watch, Allegation letter regarding the legal gender recognition procedure in Ukraine, as specified in Order No. 60 of the Ministry of Health of Ukraine, April 27, 2015, <http://www.hrw.org/news/2015/04/27/allegation-letter-regarding-legal-gender-recognition-procedure-ukraine-specified-ord>.

⁴⁸ Human Rights Watch Letter Re: South Dakota HB 1008 and the Rights of Transgender Students.

acute in recent post-disaster situations in Nepal and Japan.⁴⁹ Sanitation facilities must be safe, secure, socially and culturally acceptable, and provide privacy and ensure dignity for all individuals, including those who are transgender and gender non-conforming, to fulfill their rights to water and sanitation. A crucial step toward realizing safe and equal access to sanitation facilities is to ensure that legal gender recognition policies are available in all countries and are predicated on the self-declaration of individuals, not the adjudication of any medical or other “expert” body.

2. Women and Girls with Disabilities

Women and girls with disabilities face unique challenges in accessing water and sanitation. Due to limitations which may restrict their movement and present difficulties in carrying out everyday tasks, such as collecting water to bathe or physically moving to the toilet to relieve themselves, their abilities to properly manage their hygiene may be compromised. In societies where access to water is limited and accessible sanitation facilities are difficult to find, they may be unable to realize a wide-range of fundamental rights, including the rights to education and health.

Human Rights Watch has documented the particular impact lack of menstrual hygiene management has on girls with disabilities. Their education may be stopped abruptly when they begin menstruating. In Nepal, for example, Human Rights Watch found that girls with disabilities often drop out of school once they reach puberty because often there are no support services in school to help them during their period.⁵⁰ Although the lack of a safe space to manage menstrual hygiene impacts all girls, the difficulty that girls with disabilities have in moving, dressing, and using the bathroom independently increases their vulnerability to intrusive personal care or abuse.⁵¹

Some families and caregivers of women and girls with disabilities find it too difficult to manage their loved one’s menstruation without support. In extreme cases, some families may resort to involuntary sterilization as a means of menstrual management.⁵²

⁴⁹ APTN, WHO, and UNDP, “Blueprint for the Provision of Comprehensive Care for Trans People and Trans Communities in Asia and the Pacific,” <http://static1.squarespace.com/static/53cf9459e4b0a5929855f337/t/5613e795e4b0664e55678cde/1444145324259/Asia+Pacific+Trans+Health+Blueprint.pdf> (accessed February 13, 2016).

⁵⁰ Human Rights Watch, *Futures Stolen: Barriers to Education for Children with Disabilities in Nepal*, August 2011, p. 37, <http://www.hrw.org/sites/default/files/reports/nepal0811ForWebUpload.pdf>.

⁵¹ Ibid.

⁵² Kriti Sharma, End the Stigma: Why Menstruation Matters to Women's Rights, Huffington Post, May 28, 2014, <https://www.hrw.org/news/2014/05/28/end-stigma-why-menstruation-matters-womens-rights>.

In addition to challenges managing menstruation, women and girls with disabilities face particular hardships in accessing water. Limited mobility and physical restrictions may put them at a great disadvantage when collecting water. In Uganda, where Human Rights Watch researched discrimination and sexual and gender-based violence experienced by women with disabilities, we documented cases where women with disabilities were denied water at the borehole because non-disabled people went first or blocked the way for persons with disabilities.⁵³

Women and girls with disabilities may also find it especially difficult to move around and access water and sanitation services offered in camps without assistance, as our 2015 research in M’Poko camp in the Central African Republic found.⁵⁴ In M’Poko, as in other displacement camps, the terrain is uneven and there are open drainage ditches. Such terrain makes it difficult and dangerous for women and girls who use wheelchairs or who are blind to move around without assistance, and accessing basic necessities—such as latrines—can be especially difficult.⁵⁵

Without accommodations and provisions to account for their special needs, women and girls with disabilities may face significant barriers to realizing their rights to water and sanitation.

Recommendations

Governments should take measures to ensure that gender discrimination or gender differences do not impede the enjoyment of the rights to water and sanitation. We recommend that your report addresses the following state obligations:

- To promote substantive equality in access to water and sanitation in public facilities, including schools, health centers and various detention facilities;
- To regulate non-state actors, including employers, in ensuring non-discrimination in relation to the rights to water and sanitation;
- To reduce risks of violence associated with open defecation, unsafe bathroom facilities, and the collection of water;

⁵³ Human Rights Watch, “As If We Weren’t Human”: *Discrimination and Violence against Women with Disabilities in Northern Uganda*, August 2010, <https://www.hrw.org/report/2010/08/26/if-we-werent-human/discrimination-and-violence-against-women-disabilities-northern>.

⁵⁴ “Central African Republic: People with Disabilities Left Behind,” Humans Rights Watch news report, April 28, 2015, <https://www.hrw.org/news/2015/04/28/central-african-republic-people-disabilities-left-behind>.

⁵⁵ Ibid.

- To ensure women's and girls' participation in decision-making related to water and sanitation.

We thank you for the opportunity to provide this information and are ready to answer any further questions you or your staff may have.

Sincerely,

A handwritten signature in black ink that reads "Amanda Klasing". The signature is fluid and cursive, with "Amanda" on the first line and "Klasing" on the second line.

Amanda Klasing
Senior Researcher, Women's Rights Division
Human Rights Watch