



Frameworks



REALISING THE HUMAN RIGHTS TO WATER AND SANITATION:
A HANDBOOK BY THE UN SPECIAL RAPPOREUR
CATARINA DE ALBUQUERQUE

Legislative, regulatory and policy frameworks





Realising the human rights to water and sanitation:
A Handbook by the UN Special Rapporteur
Catarina de Albuquerque

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safe drinking water and sanitation.

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01.

The definition of the human rights to water and sanitation

This Handbook uses the definitions of the human rights to water and sanitation set out in the boxed text below. The interpretation of the norms and definitions that give substance to the legal content of the human right to water has been developed in General Comment No. 15¹ of the UN Committee on Economic, Social and Cultural Rights (CESCR).

The Committee also confirmed the status and legal content of sanitation as a human right, and defined the norms that apply to this right in its Statement on Sanitation², based on a 2009 report on human rights obligations related to sanitation, written by the then Independent Expert (now the Special Rapporteur on the human right to safe drinking water and sanitation).³

02.

The relationship between international human rights law and national legal frameworks

International human rights law demands that States work towards achieving universal access to water and sanitation, being guided by human rights principles and the standards of the human rights to water and sanitation.

In monist States international law and national law constitute a single legal system. Therefore, rules of international law constitute an integral part of domestic law and produce direct legal effects without any further law being enacted within a country. In dualist States, however, international law and national law are two separate and independent legal systems. In such States, therefore, for international law to be applied, it is necessary for the State to transpose international legal norms into the national legal system through the adoption of a national law.

2.1.

The role of national legal frameworks

International human rights law cannot provide the very detailed guidance that it is necessary to have in national law, where the particular circumstances of each country affect how the State will go about realising the human rights to water and sanitation. The detailed parameters for the provision of water and sanitation services that will bring taps and toilets to people can only be set in the context of each State.

While States are free to choose how they realise human rights, article 2 (1) of the International Covenant on Economic, Social and Cultural Rights points out the particular role of legislation in the realisation of Covenant rights.⁴ Legal frameworks constitute the formal expression of a State's intentions and have a legally binding and (generally) permanent nature.

This section provides an outline of what legislators, policy makers and civil servants should consider when drafting, revising and applying legal and policy frameworks, in order to ensure that these are compatible with the human rights to water and sanitation.

2.2.

The structure of national legal and policy frameworks

National legal frameworks are diverse – there is no single structure that applies to all legal systems the world over. However, similarities between them do exist. Legal frameworks generally consist of different tiers, with a certain hierarchical consistency. In describing how States should incorporate the human rights to water and sanitation into their national systems, this Handbook uses a common categorisation of possible instruments at different levels, namely, 'constitution', 'laws', 'regulations', and 'policies'. These categories separate the different legal instruments into a hierarchy of levels of power and also distinguish between instruments that come from the executive and those from the legislative branch of government.

The structure of national legal and policy frameworks

LEGISLATIVE BRANCH

Constitution

The Constitution is the supreme and fundamental law that sets out the State's basic structure, including the exercise of political power and the relationship between political entities and between the State and the people.⁵ This usually includes a set of human rights. Generally, constitutions are difficult to alter and represent the most durable form of legislation.⁶ In a national legal hierarchy, constitutions qualify as supreme laws. All other legislation must be in harmony with the provisions of a State's constitution.

Laws

The legislature has the sole power to create, amend and repeal laws. It thereby sets the parameters within which the executive branch of government has to act.⁷ Laws contain more detail than a constitution does, including provisions for governing the country, which extend to the realm of human rights. Laws can, within limits, delegate parts of the authority to create rules to the executive branch. In most countries, some special courts – mostly supreme or constitutional courts – have the power to order a change to laws when these contravene the constitution or, in some jurisdictions, international human rights law.

This Handbook uses 'law' for all legal instruments that emanate from the legislature. This term covers other common terms, such as 'act', 'bill' or 'statute'.

EXECUTIVE BRANCH

Regulations

Where laws delegate the power to make rules to the executive branch, this Handbook uses the term 'regulation'. This delegated legislation has the same legal force as a law, but it allows the technical, scientific and other expertise available to the executive branch to be incorporated more easily. Regulations are commonly used to insert specific meaning into the general terms contained in laws. However, regulations are usually not as rigid as laws, as they can be changed by the executive. In many countries, courts can also repeal regulations that contravene laws, as laws are hierarchically superior.

This Handbook uses 'regulation' for all rules that emanate from the executive branch. This term covers other common terms, such as 'decree', 'ordinance', 'circular' or 'by-law'.

Policies

Policies constitute the general principles a government follows in its management of public affairs. They are used to shape the 'plan of action' that the executive uses to put its vision into practice. As with regulations, policies must not contravene laws. However, they also have a role in shaping future laws; for example, by recommending the revision of laws to bring them into line with human rights. Unlike regulations, laws and the constitution, policies are generally difficult to enforce judicially, as they serve as a declaration of intentions rather than as a description of rights and obligations. Their association with a certain government may also render them less durable.

This Handbook refers to 'policies' for all executive instruments that do not have the legal force of a law. This term covers other common terms, such as 'strategy', 'plan' or 'programme'.

A written description of the way these categories work and the interaction between the different tiers, using as an example the affordability of sanitation services:

The **constitution** of a country guarantees that water and sanitation are human rights.

A **law** further specifies the standards of sanitation service provision for households. It states that sanitation services must be affordable, and that all households must connect to the network (where a sewerage network exists). The law tasks the sanitation utility, together with a regulator, with regulating the tariffs for connecting households.

The corresponding **regulation** – passed by the regulator – states, for example, that each household must bear the capital costs of laying connecting pipes. The regulation provides for the payment of this connection fee in instalments for households that are unable to pay the full amount in a single payment.

Most households in the area are able to pay, either in a single payment or in instalments, and the utility can usually recoup its capital investment costs. One family approaches the utility to seek connection to the sewerage network. Their household income is so low that they are unable to pay the

requested fee, even in instalments. The utility – on the basis of the regulation – refuses to connect the household.

In this example, the regulation does aim to ensure affordability by allowing payment in instalments. However, for this individual family, the regulation, unintentionally, does not ensure affordability. In this individual case, the insistence by the utility on abiding by the **regulation** contravenes the **law**. As the higher-level norm, the law guarantees affordability for every household. The family in question is therefore entitled to demand to be connected to the network at a cost that is affordable to them; this bypasses the regulation and is based directly on the law. The state – in cooperation with the regulator and utility – in turn has a duty to find a solution; for example, through a scheme that adjusts connection fees for very low-income families, or one in which the State provides a grant or subsidy to the household to pay the charge.

The role of **policies** is somewhat different: they are a ‘plan of action’; governments should use them to plan for the progressive realisation of the human rights to water and sanitation. In the example given above, a policy could plan the revision of the **regulations** to include a 100% waiver of fees for households that are unable to afford any connection fee.

03.

The status of the human rights to water and sanitation in the national legal framework

The constitution provides the strongest general guarantee of human rights within national legal frameworks, because it represents the supreme law of the State with which all subordinate tiers of the legal framework must comply, and which cannot easily be changed. This constitutional guarantee then serves as a reference for drafting and interpreting subordinate laws, regulations and policies.

A constitutional guarantee of the human rights to water and sanitation can take different forms: it can be explicit or implicit and the level of detail may vary.

The human right to water and – to a lesser extent the human right to sanitation – are and have been part of many constitutions, including some that were established prior to the recognition of the human right to safe drinking water and sanitation by the UN General Assembly in 2010. In 2004, Uruguay became the first country to include an explicit guarantee of the human rights to water and sanitation in its Constitution, stating in article 47 that:

[...] Access to clean water and access to sanitation constitute fundamental human rights [...]

India provides an example of an implicit constitutional guarantee of the human rights to water and sanitation. While the human rights to water and sanitation are not explicitly mentioned in the Constitution, settled case law from courts at both State and federal level interprets article 21 of the Constitution – the right to life – as encompassing the right to safe and sufficient water and sanitation.

In Argentina, the constitutional rights to health and a clean environment have been interpreted as including the human right to clean water; for example, in the context of a case of (ground-) water pollution that adversely affected the health of a community.⁸

International human rights law does not oblige States to include a guarantee of the human rights to water and sanitation in their constitutions, nor does it prescribe whether such a guarantee should be explicit or implicit. However, a constitutional guarantee is highly desirable if

the rights are to have meaning within the legal framework of a country. In the absence of a clear, top-level norm, the protection of the human rights to water and sanitation may be piecemeal, spread over a number of provisions in different laws, regulations and policies, and be interpreted differently by different actors. This is problematic for two reasons: first, individuals will often find it difficult to identify and pursue their human rights. Second, legal frameworks are unlikely to do justice to every individual case. It is precisely in those cases where laws, regulations and policies – often unintentionally – do not provide for an individual’s human rights to water and sanitation that a constitutional guarantee can override subordinate norms and grant the rights in practice. The formal recognition of the human rights to water and sanitation in a constitution ensures greater legal certainty regarding the existence and legal content of these human rights.



04.

Human rights principles in the national legal framework

General human rights principles include safeguards that relate to the process of realising the specific human rights to water and sanitation. These are: non-discrimination and equality, information, participation and accountability.

Human rights principles must be ensured in the context of realising any and all human rights, not just the human rights to water and sanitation. The following sections therefore refer both to the general legal frameworks of countries – which typically include norms defining general human rights principles – and to norms specific to the water and sanitation sectors.

4.1. Non-discrimination and equality

Constitutional guarantee

Because of the fundamental importance of non-discrimination and equality for the enjoyment of human rights in general and the human rights to water and sanitation in particular, it is highly desirable for a State's constitution to guarantee non-discrimination and equality. As with the human rights to water and sanitation, such constitutional provision clearly gives individuals a legal claim, guaranteeing non-discrimination and equality even in those cases where the remainder of the legal framework results – sometimes unintentionally – in discrimination.

Constitutional guarantees of equality before the law, and of non-discrimination, exist in most countries. They usually include at least a guarantee of equal treatment for all, and it is preferable that positive measures aimed at achieving substantive equality for all also be enshrined in the constitution, as in the Constitution of South Africa, which states in article 9 that:

1. Everyone is equal before the law and has the right to equal protection and benefit of the law.
2. Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.

Laws

Along with the constitutional guarantee of the right to equality, a law that specifies the prohibition of discrimination, as well as the duty to work towards equality, is essential.⁹ Laws should also provide for complaint mechanisms – including courts – in order to ensure that any instances of discrimination are addressed.

The UK's Equality Act 2010 is an example of a law that outlaws discrimination in the workplace and in the wider society; it applies equally to private actors and government agencies. The latter are bound by the 'equality duty', which obliges public bodies to shape policy and deliver services in such a way that discrimination is eliminated and equality of opportunity advanced.¹⁰

.....
EVERYONE IS EQUAL
BEFORE THE LAW

Regulations

In the legal framework specific to the provision of water and sanitation services, regulations should contain positive measures or affirmative action for disadvantaged individuals and groups. These will include targeted investments to eliminate disparities, as well as measures to make water and sanitation services affordable for poor people. Enforcement is crucial in order effectively to outlaw discriminatory practices and exclusion by private sector actors.

Honduras, Law for the Drinking Water and Sanitation Sector, Decree No. 118–2003, 2003:

Article 22: Priority shall be given, without forbearing from the objectives of improved efficiency and quality, to the goals of maintaining and extending the coverage of potable water and sanitation services in economically deprived areas, applying criteria of equity.

Article 36: The tariffs for water and sanitation services provided to users with low family incomes, which are determined by means of socio-economic studies, shall be set in a manner that allows a partial recovery of costs and shall, as long as the condition of social vulnerability endures, be assigned as preferential tariffs.

STATES MUST ELIMINATE DISCRIMINATION IN ACCESS TO WATER AND SANITATION SERVICES

Policies

Policies play a specific role in working towards substantive equality, which can only be achieved through a process of affirmative action for people without access to water and sanitation services. This affirmative action should be included in policies.

Ghana, National Water Policy, 2.2.2 Focus Area 2 – Access to Water:

Principles and Challenges – The main principles and challenges include:

- (i) the fundamental right of all people without discrimination to safe and adequate water to meet basic human needs; [...]

Policy Objectives – The policy objectives are to:

- (ii) facilitate improving access to potable water without discrimination; and
- (iii) enhance the management and development of water resources in a manner which, as first priority, safeguards that the entire population, particularly the poor and vulnerable, will have access to adequate and potable water.

States must monitor the implementation of measures that aim to ensure equality. Policies and plans should use or develop appropriate indicators and benchmarks to assess both the steps taken and the results achieved in their attempts to eliminate discrimination in access to water and sanitation services. (see [Monitoring](#), pp.11-13)

Common challenges

1. Informal settlements

Lack of security of tenure in informal housing settlements is often used as a reason to deny households or communities a connection to formal water and sanitation networks. Tenure status must never be invoked as a justification for denying access to water and sanitation.

2. Open defecation and urination

In many countries, defecating and urinating in the open are prohibited by law. While there are clear health reasons for such laws, this type of prohibition has a discriminatory effect on people who do not have access to a toilet. Homeless people and people living in informal housing settlements without sanitation facilities may have no choice but to defecate in the open. Enforcement of such rules against people who have no other option constitutes discrimination and must be discontinued. As an interim solution, States should urgently provide access to public sanitation facilities, at night as well as during the day, until adequate housing is provided.¹¹

3. Covert discrimination

Many discriminatory practices are concealed in apparently neutral laws or policies. Indigenous people, or people of a particular ethnicity or language group, often face unequal access to water and sanitation, perhaps because of where they live rather than for explicitly discriminatory reasons.¹² In the United States of America, regulation of water services in certain rural areas provides for water quality standards lower than those that in urban settlements. This has a negative impact on poorer rural populations, who are not necessarily in a position either to purchase safe water or to remain informed about water quality standards. Rich households living in the same regions do not suffer

in the same way.¹³ States must adopt active measures to eliminate both direct and indirect discrimination; they must devote greater resources to neglected individuals and groups in order to close the gaps between them and other sections of the population. For example, the Municipality of Prekmurje in Slovenia has waived the strict regulations on house ownership to enable Roma families to access municipal water and sanitation services.¹⁴

4. Stigmatisation through special procedures for subsidies

Subsidies and other mechanisms to increase affordability are needed in virtually all countries, to ensure that people who are unable to pay the standard charges for services are still able to use water and sanitation services. In establishing these mechanisms, States must take care to avoid unintended discriminatory effects. In South Africa, people can apply under indigent policies for free access to essential services, including water and sanitation.¹⁵ This is necessary if low-income households are to access services. However, the Indigent Register is published, and all members of the public are able to see who features on it. It has been reported that people are reluctant to apply because of the stigma attached to the status of being indigent. While public oversight of State subsidies is crucial to ensure transparency, this should not lead to discriminatory effects.

States must incorporate provisions to address discrimination and eliminate inequalities in access to water and sanitation into their constitutions, laws, regulations and policies.

4.2.

Access to information and transparency

The right to access information must be an integral part of legal frameworks that relate to the provision of water and sanitation services.¹⁶ Legislation should require that adequate resources are devoted to ensuring access to information, and that access to information regarding water and sanitation services is available to all.

Laws

Laws guaranteeing access to information are based on the principle of ensuring access to information about affairs that concern the public in general, and not only water and sanitation service provision.

The Right to Information Act in India provides residents with the means to access information that is under the control of public authorities, promoting accountability in service delivery and transparency among public authorities. It has been used by individuals and communities to demand information on programmes, projects and budgets for a range of different public services, including water and sanitation.¹⁷

Some countries have legislation that refers specifically to the need for access to information in the water and sanitation sectors.

Brazil, Law on Water and Sanitation, article 27

Users of [basic] public water, sanitation and solid waste services, in accordance with the legal, regulatory and contractual rules, are granted:

- I broad access to information on the services rendered;
- II previous knowledge of all their rights and duties and of penalties to which they may be subject;
- III access to a service delivery manual and user service manual, prepared by the service provider and approved by the corresponding regulatory entity;
- IV access to periodical reports on the quality of the services rendered. [...]

STATES MUST
ENSURE ACCESS
TO INFORMATION
ABOUT AFFAIRS THAT
CONCERN THE PUBLIC

Regulations

Data and information on water and sanitation provision that are held by public authorities and third parties, and are of direct concern to stakeholders, should be publicly available. Information must be made accessible and understandable for everyone, including, for example, people who speak a minority language or are unable to read.

Honduras, Law for Drinking Water and Sanitation, Decree No. 118-2003, article 25:

The users of the public potable water and sanitation services enjoy, *inter alia*, the following rights: [...]

- 2) To receive information about the provision of the services, tariff system and method of payment, plans regarding expansion and improvement of services, and any other circumstances that may be of interest to them, with sufficient detail to enable them to exercise their rights as users; [...]



Policies

States should thoroughly assess the transparency of governance and the ways people can access information. They should create policies and plans for more openness, and improve levels of access to information. This includes, for example, the creation of mechanisms to ensure an effective and timely response to information requests, and to disseminate information through channels that are accessible to all.

Republic of Rwanda, National Policy and Strategy for Water Supply and Sanitation Services 2010:

7.6 Collective Sanitation

[...] Awareness campaigns to households on hygiene practice shall include information about investment and operating costs of sewerage in order to increase cost understanding and willingness to pay.

The following policy example includes an analysis of gaps in information assessments and plans for improvement.

South Africa, Cape Town, Water Supply and Sanitation Policy White Paper, 1994, p. 30:

Monitoring and information

Information and decision support systems [...]

In order to successfully support a national basic water supply and sanitation programme, the existing information systems in the country need to be upgraded to overcome various shortcomings. Information is dispersed amongst a range of organisations such as the former homelands, various Government Departments, Water Boards, consultants and non-government organisations, and is not readily available. Information is also duplicated and data inconsistencies exist. [...]

The information system must provide useful and accessible information for communities, Local Water Committees and Local Authorities, second tier water bodies i.e. Water Boards, Provincial Governments, consultants, NGOs, and various other Central Government Departments.

The principles of the proposed National Water Supply and Sanitation Information Management System will be:

- The National System must be people-focused and service orientated.
- Information should be accessible to communities and to all levels of the water industry. Information available to different sectors should be useful, relevant, reliable and in an appropriate format (electronic formats and printed format). [...]

.....

LEGISLATIVE AND
POLICY FRAMEWORKS
MUST SAFEGUARD
THE RIGHT TO
PARTICIPATION

Common challenges

1. Avoiding the *de facto* exclusion of people from access to information

The ways in which information is made available should fit the habits of the people to be reached. Information that is disseminated only through the internet will only reach people who have internet access. Regulation of the ways information is shared is therefore crucial.

Namibia, National Sanitation Strategy 2010/11 – 2014/15, Second Draft 2009, pp. 42-44:

The Sanitation Balanced Scorecard, Theme C: Community Education and Participation
Develop general IEC [Information, Education and Communication] materials, incl. all media, e.g. pamphlets, posters, radio and TV programmes, booklets and manuals (tech & health); Translate IEC materials in[to] local languages (considering illiterate communities)
Develop participatory guidelines and IEC tools for rural and urban areas (design and languages for local context).

2. Ensuring that information is understandable

Even the best system for making information accessible and transparent to the public will fail if people are not able to understand the information provided. Experts – in government and outside of government – have a tendency to use language that will be understood by other experts, but difficult for non-experts to understand. Transparency and access to information can therefore only be ensured when information is set out clearly. The United Kingdom has developed a style guide for all government websites, with the aim of achieving this.

1.5 Plain English – UK Government, Content Style Guide – Writing for GOV.UK

[...] Use plain English. Don't use formal or long words when easy or short ones will do. Use 'buy' instead of 'purchase', 'help' instead of 'assist', 'about' instead of 'approximately' and 'like' instead of 'such as'.

We also lose trust from our users if we write government 'buzzwords' and jargon. Often, these words are too general and vague and can lead to misinterpretation or empty, meaningless text. We can do without these words: [...]

3. Awareness raising and capacity building

The adoption of laws, policies or programmes to ensure access to information can only be effective where adequate attention is paid to awareness raising and capacity building. This can include informing people about national and local strategies (including tariff structures and plans of action for the delivery of water and sanitation services) or about policy changes that may have an impact on people's enjoyment of the rights to water and sanitation.¹⁸

Pakistan, National Drinking Water Policy, 2009:

6.6 Public Awareness

- (i) Intensive information, education and communication campaigns will be developed and implemented to promote water safety, water conservation and safe hygiene practices. To this effect, a National Behavioral Change Communication Strategy will be formulated and implemented; and
- (ii) Hygiene promotion will be made an integral component of all water supply programmes.

States must incorporate provisions into their constitutions, laws, regulations and/or policies to ensure that people are able to access information relevant to their enjoyment of their human rights to water and sanitation.

4.3. Participation

Legislative and policy frameworks must safeguard the right to participation. In the process of developing laws, regulations and policy-level instruments, active, free and meaningful participation must be guaranteed. Legal and policy frameworks must be as detailed as possible in setting out the institutions and procedures that will enable participation at the various stages of decision-making. Opportunities for people to engage should be spelled out, and the responsible agency or official clearly identified. Without this, the right to participation can remain vague and merely aspirational.

Constitution

Constitutional and legislative provisions from all regions of the world demonstrate increasing recognition of the right to participation. Some constitutions explicitly set out a *right* to participation¹⁹, others provide directive principles on participation.²⁰

For example, the Ethiopian Constitution contains an explicit right to participation: the right to development not only guarantees participation to those affected but states that “citizens shall have the right to participate in national development, and in particular, to demand that their opinions be heard on matters [...] pertaining to the community of which they are members”.²¹ A number of constitutions stress opportunities for participation by specific population groups, including youth²², minorities and marginalised groups²³, and older persons.²⁴

Ecuador’s Constitution refers to participation as a directive principle and prescribes that “at all levels of government, entities of participation shall be set up [...]”²⁵, specifying particular areas of participation [including] participatory budgets”.²⁶

Participation should also be included in constitutional provisions. For example, in Uruguay a referendum proposing a constitutional amendment on water was approved by 64.6% of voters in 2004.²⁷ In Kenya, the human right to water and sanitation was explicitly recognised in the Constitution after extensive public consultation, and was adopted by a referendum in 2010 with an approval rate of more than 67%.²⁸

Laws

Public participation in deliberations on new or reformed legislation is itself as important as the creation of legislation mandating participation in water and sanitation services.

STATES MUST
GUARANTEE
ACTIVE, FREE AND
MEANINGFUL
PARTICIPATION

The Law on Water and Sanitation²⁹ in Brazil establishes clear instructions on participation, such as: “[...] holding a previous public hearing and consultation about the bidding announcement, in case of concession, and on the draft contract [...]”.³⁰ Many other countries include similar provisions on participation in water and sanitation legislation, including Mozambique³¹, Venezuela³², and São Tomé and Príncipe.

São Tomé and Príncipe, Law [on the Environment] No. 10/1999:

Article 7: Principle of Participation

1. Citizens and various social groups shall be involved in the formulation and implementation of environment and development policies.
2. The State must ensure the participation of citizens and stakeholders in the decision-making process.³³

Although South Africa’s National Water Act (1998) contains robust provisions on public engagement in integrated water resource management, it was only after 2007, when detailed guidelines were issued regarding the development of Catchment Management Strategies, that public officials understood and began to implement public participation. It has been proposed to transform these guidelines so that they become task-oriented step-by-step guides to engaging the public in integrated water resource management.³⁴

Regulations

States must stimulate participation by all stakeholders affected by decisions about service levels, the maintenance and operation of water and sanitation services, and tariffs. Special efforts or affirmative action will often be required to ensure that all people, including marginalised and vulnerable groups and people facing particular barriers, are afforded a real opportunity to take part in making decisions. An example of the consultative management of communal water points:

Kenya, Model Water Services Regulations 2002, Section 71: Communal based supplies

- (1) The Water Service Provider shall install a communal water kiosk for the provision of water supply services to several consumers at a location it considers appropriate, provided that a majority of consumers, who in the opinion of the Water Service Provider constitute a substantial majority, and to whom water services will be provided by the Water Services Provider, has been consulted by him or the Water Services Board.
- (2) The Water Service Provider may provide communal water supply services through a communal installation designed to provide a controlled and measurable volume of

water to several consumers and commercially managed in consultation with the community.

- (3) The Water Service Provider shall ensure that the water tariffs charged at such a water point shall be appropriate for the consumers and shall be published in a prominent place at the water point.

Policies

Governments must develop programmes and policies that guarantee and encourage the participation of all people affected by a decision, with a particular focus on those individuals and groups who are disadvantaged or marginalised.

Peru's National Programme for Rural Water and Sanitation (PRONASAR) aims to set up participatory management structures to meet the needs of poor, marginalised and isolated rural populations.³⁵ For this purpose, it has defined strategies for service provision in rural areas and small towns. The strategy for rural areas states the following with respect to community participation:

e) Community Participation

The community participates in the entire project cycle, defines its needs in the choice of the technology, level of service and commitment to pay for AOM [administration, operation and maintenance], identification of the family fee based on their ability to pay, choice of governing board, assistance for communal training and health education, in the execution of the work by the governing board, [...] with the understanding that the active participation of the people is the best way to ensure the sustainability of services.³⁶

The **2009 National Drinking Water Policy of Pakistan** highlights the role of women in domestic water provision and hygiene and therefore demands women's participation, in particular in decision-making:

5. Policy Principles [...]
 - (iv) Recognizing the fact that women are the main providers of domestic water supply and maintainers of hygienic home environment, their participation in planning, implementation, monitoring and operation and maintenance of water supply systems will be ensured; [...]
- 6.5 Community Participation and Empowerment
 - (i) Participation [of] communities, especially women and children, in planning, implementation, monitoring, and operations and maintenance of water supply systems will be encouraged, to promote community ownership and empowerment as well as sustainability;
 - (iii) Community mobilization units will be established in water supply related institutions;
 - (iv) Special focus will be placed on gender training programs for the staff of water supply related institutions at all levels so that they are able to respond in a sensitive manner to the gender differentiated needs in the drinking water sector;

STATES MUST
DEVELOP
PARTICIPATORY
MANAGEMENT
STRUCTURES TO
MEET THE NEEDS
OF POOR,
MARGINALISED AND
ISOLATED RURAL
POPULATIONS

Because Brazil recognises a constitutional right to participation, the government of Brazil, in developing its national plan for water and sanitation (PlanSab), undertook a broad-based participatory process. The process included public hearings and consultations, with additional participation through the national policy councils responsible for water resources and environment. The government then gave an account of how the views received had been considered. By the government's account, at least 67% of the contributions made have been incorporated either wholly or partly into the plan.³⁷

Common challenges

1. Barriers to participation

Even where formal opportunities to participate in decisions exist, people may not be aware of these opportunities; if they are aware they may doubt their ability to influence outcomes. Where consultations are only announced at very short notice, or with unrealistic registration rules, or only announced in writing or in a majority language, or are scheduled at inconvenient times or in inconvenient locations, people will not be able to attend and take part. Therefore, regulations and policies must provide guidelines for a State to follow when organising opportunities for people to participate. (see Justice, pp.14,18; Principles, pp.57-69)

States must incorporate provisions into their constitutions, laws, regulations and/or policies that ensure that people have opportunities to active, free and meaningful participation in decisions relating to the realisation of the human rights to water and sanitation.

4.4. Accountability

Constitutions

The right to an effective remedy is contained in article 8 of the Universal Declaration of Human Rights and constitutes a principle of customary international human rights law. It demands that individuals be able to claim their rights before competent institutions when they feel their rights have been violated. While States have discretion as to how they incorporate this principle into their national legal frameworks, the fact that human rights can be enforced gives them legal weight, both for individuals and for all actors involved in service provision.³⁸ Ideally, the right to a remedy should be enshrined in a State's constitution.

Accountability and access to justice should permeate the legal framework and should involve judicial, administrative, regulatory and other bodies, as well as a range of mechanisms. The principle of access to justice should be enshrined at constitutional level to ensure that it is available to all. Constitutional guarantees of the right to a remedy or the right of access to courts are common.

Constitution of Portugal 1976, (7th revision of 2005), article 20 (1):

Everyone is guaranteed access to the law and the courts in order to defend those of his [or her] rights and interests that are protected by law, and justice may not be denied to anyone due to lack of sufficient financial means.

Many constitutions also establish oversight bodies that are competent to hear individual complaints, such as ombudspersons or human rights commissions. This can help ensure that remedial mechanisms are accessible.

Constitution of Argentina, 1994:

Section 86: The Ombudsperson is an independent authority created within the sphere of the National Congress, operating with full autonomy and without receiving instructions from any other authority. The mission of the Ombudsperson is the defence and protection of human rights and other rights, guarantees and interests contained in this Constitution and the laws, in the face of deeds, acts or omissions of the Administration; as well as the control of public administrative functions. The Ombudsperson has the capacity to be a party in a lawsuit. He is appointed and removed by Congress with the vote of two-thirds of the members present of each House. He has the immunities and privileges of legislators. He shall hold office for the term of five years and may only be re-appointed once. The organisation and operation of this body shall be ruled by a special law.

ACCOUNTABILITY
AND ACCESS TO
JUSTICE SHOULD
PERMEATE THE
LEGAL FRAMEWORK

.....

EVERYBODY
MUST HAVE THE
RIGHT TO BRING
COMPLAINTS BEFORE
COMPETENT CIVIL
OR ADMINISTRATIVE
COURTS

Laws

The right to a remedy demands that every individual or group must be able to enforce her, his or their rights against the State or private actors. Enforcement can take place at different levels: first, complaint procedures must be established at the level of service provision to ensure that users can hold service providers to account if problems arise. Second, quasi-judicial institutions, such as national human rights institutions or ombudspersons, should be given a role in resolving those complaints that cannot be resolved directly between service providers and users, but which might be resolved without the courts having to be involved. Third, everybody must have the right to bring complaints before competent civil or administrative courts to seek the legally binding resolution of a conflict. An example for the establishment of complaint procedures at the level of service providers:

Colombia, Law 142 (1994), establishing the framework for public household services:

Article 152: The right to petition and appeal

The essence of the contract of public services is that the subscriber or user can present to the company petitions, complaints, or appeals relating to the contract of public services.

An example for the establishment of complaint procedures at the level of the regulatory authority:

Kenya, Water Act 2002, No. 8 of 2002:

Section 47: The Regulatory Board shall have the following powers and functions [...]

(c) to establish procedures for handling complaints made by consumers against licensees;

Iceland has established a parliamentary ombudsperson with the capacity to receive complaints and make recommendations in cases involving the State, public administration and private parties vested with public authority.

Iceland, Act No. 85/1997 on the Althing [parliament of Iceland] Ombudsperson:

Article 4, Complaint to the Althing Ombudsperson: The Ombudsperson may take up a case following a complaint. Any person who feels unjustly treated by any of those indicated in paragraphs 1 and 2 of article 3 can complain thereof to the Ombudsperson. A person who has been deprived of his or her liberty has the right to lodge a complaint with the Ombudsperson in a sealed letter.

.....

With respect to accountability between the different actors involved in water and sanitation service provision, clear institutional mandates must be defined, and the fulfilment of these mandates must be accountable to bodies tasked with oversight functions, such as an independent regulator. South Africa's Water Services Act contains a chapter on 'Monitoring and intervention', which provides for the regulatory bodies to monitor service providers, and the Ministry of Water Affairs and Forestry and Provinces to monitor the work of the regulatory body. It also allows for intervention by the Minister of Water Affairs and Forestry, where the performance of either the service provider or the regulatory body has been unsatisfactory, to apply sanctions up to and including the assumption of functions.³⁹

Regulations

In order to guarantee monitoring and compliance with the human rights to water and sanitation, regulations must allow for independent monitoring mechanisms by the different organs of the State and independent monitoring bodies, to keep track of how the water service providers are performing. Whenever an agency or body has not effectively performed a function imposed on it, another level of government, or the judiciary, must be able to intervene. In addition, regulations serve to set out clear institutional mechanisms to ensure that individual complaints are heard.

For example, in Ghana the Public Utilities Regulatory Commission is an independent body set up to regulate and oversee water services to consumers. One of its functions is to receive and investigate complaints and settle disputes between users and the public utility.⁴⁰

Ghana, Public Utilities Regulatory Commission Act (Act 538), 1997 (Complaints Procedures) Regulations:

- 4(1) the Commission shall make a preliminary enquiry into the complaint.
- 4(2) If the Commission considers that the complaint may be mediated upon and settled, it shall invite the parties concerned and initiate a settlement of the complaint.
- 4(3) If the complaint cannot be settled, the commission shall follow the procedure for a formal hearing of the complaint as provided in these regulations.⁴¹

REGULATIONS
MUST ALLOW FOR
INDEPENDENT
MONITORING
MECHANISMS

The law that delegates the powers to the Commission also specifies enforcement powers for the Commission.

Ghana, Public Utilities Regulatory Commission Act:

32. Enforcement of Decisions of the Commission

Where the Commission, whether before or after any investigation, makes any decision or gives any direction, requiring any person to do or desist from doing any act, and there is failure on the part of the person to comply with the decision or direction, within a specified period, if any, or within a reasonable time, the Commission may apply to the High Court for the enforcement of the decision or direction.

Policies

Accountability starts with monitoring the actions of the government and the progress it has made in reaching targets. This involves the collection of data on progress, as well as the examination of underlying institutional structures.⁴² Policies should plan to improve the oversight structures and accountability mechanisms through which individuals and groups can seek remedies.

In the United Kingdom, the Secretary of State for Constitutional Affairs has issued a White Paper that looks at how dispute resolution between citizens and the State can be improved. The White Paper is part of the UK public sector reform programme. It sets out the current challenges related to access to justice for citizens, and then outlines strategies to improve justice and complaint mechanisms.⁴³

White Paper: Transforming Public Services: Complaints, Redress and Tribunals:

2. Proportionate Dispute Resolution [...]

2.2 Our strategy turns on its head the Department's traditional emphasis first on courts, judges and court procedure, and second on legal aid to pay mainly for litigation lawyers. It starts instead with the real world problems people face. The aim is to develop a range of policies and services that, so far as possible, will help people to avoid problems and legal disputes in the first place; and where they cannot, provides tailored solutions to resolve the dispute as quickly and cost-effectively as possible. It can be summed up as 'Proportionate Dispute Resolution'.

.....

ACCOUNTABILITY
STARTS WITH
MONITORING THE
ACTIONS OF THE
GOVERNMENT
AND THE PROGRESS
IT HAS MADE IN
REACHING TARGETS

Common challenges

1. Devolution of powers and decentralisation

Responsibilities in water and sanitation service provision are often divided between a range of different actors. Especially where government is decentralised, a system of accountability, based on clear mandates, is crucial. Decentralisation often leads to greater participation and knowledge of local conditions, as services are brought closer to the communities they serve. However, local authorities often do not have the capacity and resources to comply fully with all obligations that the human rights to water and sanitation entail. They are often less familiar with international or national human rights law than people working in central government are. Therefore, any decentralisation of responsibilities for service provision must be accompanied by the establishment of adequate capacity and resources and clear accountability mechanisms.

2. Disconnections

Legal frameworks must put adequate procedural safeguards in place prior to any disconnection. It is crucial that users are able to seek remedies in cases where they feel that their human rights to water or sanitation have been violated. Users must be given the chance to pay arrears; if they are unable to pay, they must receive services free of charge or adequate subsidy mechanisms must be in place to ensure affordability.

South Africa, Water Services Act, Section 4 :

- (3) Procedures for the limitation or discontinuation of water services must –
 - (a) be fair and equitable;
 - (b) provide for reasonable notice of intention to limit or discontinue water services and for an opportunity to make representations, unless –
 - (i) other consumers would be prejudiced;
 - (ii) there is an emergency situation; or
 - (iii) the consumer has interfered with a limited or discontinued service; [...]

States must incorporate provisions into their constitutions, laws, regulations and/or policies allowing individuals and groups to hold the relevant institutions to account on any issue relevant to their exercise of the human rights to water and sanitation.

.....

DECENTRALISATION
OFTEN LEADS
TO GREATER
PARTICIPATION AND
KNOWLEDGE OF
LOCAL CONDITIONS

.....



05.

The legal content of the human rights to water and sanitation as reflected in national legal frameworks

If the human rights to water and sanitation are to have an impact at the national level, States must set clear standards; for example, on the quantity and continuity of water provision and the maximum time and distance people should have to travel to facilities. States may use international minimum standards as guidance, but should bear in mind that minimum standards may in some cases be below the requirements set by international human rights law (to ensure progressive realisation within the maximum available resources), or they may fail to meet an individual's particular needs (as in the cases of people living with chronic diseases or of persons with physical disabilities, who often require more water). These minimum standards must never be used as absolute standards, because the progressive realisation of human rights requires constant improvement in access over time, to levels that are above minimum standards.⁴⁴

5.1. Availability

Laws

A general safeguard asserting that water, sanitation and hygiene facilities should be available to all people is best placed in law, which provides guidance for the lower tiers of the legal framework and ensures that individuals can claim their rights.

South Africa, Water Services Act, Act 108 of 1997:

Section 3:

1. Everyone has a right of access to [a] basic water supply and basic sanitation.
2. Every water services institution must take reasonable measures to realise these rights.
3. Every water services authority must, in its water services plan, provide for measures to realise these rights.⁴⁵

This provision aims to ensure the availability of services; it also guides institutions with respect to the progressive realisation of availability for all. The use of the word “basic” implies a minimum standard, defined in the Act itself⁴⁶, and further clarified in regulations and policies.

With respect to sanitation, a system for the collection, transport, treatment, and disposal (or reuse) of human excreta, and for associated hygiene, is indispensable. To ensure that collection and treatment systems are prioritised, a clear legal statement is desirable. The South African Water Services Act includes treatment of wastes in its definition of basic sanitation:

Chapter 1, Definitions:

In this Act, unless the context shows that another meaning is intended [...]

- (ii) “basic sanitation” means the prescribed minimum standard of services necessary for the safe, hygienic and adequate collection, removal, disposal or purification of human excreta, domestic waste-water and sewage from households, including informal households; [...]⁴⁷

In some countries there is an obligation to connect to the sewerage system. In Uruguay, a law on mandatory connection to the sewerage system (Law No. 18.840 of 2011) was recently adopted, with the objective of getting previously unconnected households connected. This law requires house owners and potential house buyers to connect to the sewerage system, where it is available, within a one-year period. Failure to comply leads to fines until the connection to the sewage pipe is made (articles 6 and 7).⁴⁸

A GENERAL
SAFEGUARD
ASSERTING THAT
WATER, SANITATION
AND HYGIENE
FACILITIES SHOULD
BE AVAILABLE TO
ALL PEOPLE IS BEST
PLACED IN LAW

In rural areas not suitable for connection to a centralised network, laws must address availability by ensuring access to natural resources that comply with human rights.

Peru, Water Resources Act 2009, article 38:

The State guarantees free access to natural sources and piped services [...] to satisfy directly the primary needs of the population. The National Authority creates places or zones for open access where necessary.

If centralised service provision is not available in urban areas, States must guarantee intermediate measures to ensure that people receive a basic minimum until more permanent solutions are found. An example for water supply in informal settlements:

Nicaragua, General Law on National Water Resources 2007, article 71:

In such cases where there exists no permanent and continuous coverage of the supply system for drinking water, the institutions competent and responsible for this public service are obliged to temporarily guarantee the minimum provision in quantity and quality, in any form and through any measure. These institutions shall elaborate basic projects to supply drinking water affordable for everyone, especially when destined for marginal sectors or populations living in urban squatter settlements or rural areas.

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IN INFORMAL
SETTLEMENTS
WITHOUT PIPED
SEWERAGE
SYSTEMS, STATES
MUST STILL ENSURE
THAT SANITATION
FACILITIES, WASTE
COLLECTION AND
TREATMENT ARE
AVAILABLE

In informal settlements without piped sewerage systems, States must still ensure that sanitation facilities, waste collection and treatment are available.

Regulations

Regulations serve to give “availability” a practical definition by assigning standard numerical values to the minimum desired quantity and continuity of water and sanitation supply. To set these minimum standards, States can use international research as guidance.⁴⁹ For example, the World Health Organisation has determined water service levels and how they relate to health promotion.⁵⁰ Nonetheless, States must always take account of people’s particular needs and continue to progressively increase minimum standards.

Regulations for water typically prescribe a minimum amount that must be available to each person or household.

Indonesia, Regulation No. 23/2006, article 1 (8):

Standard of basic need for drinking water shall be the need for water as much as 10 cubic meter/head of family/month or 60 litres/person/day or as much as other volume unit stipulated further by the Minister in charge of resource affairs. [...]

.....

In many developing countries, disruptions to water supply are common, as networks do not have the capacity to deliver water continuously. In order to ensure continuity of supply, it is advisable to regulate interruptions.

South Africa, Regulation relating to compulsory national standards and measures to conserve water 2001, paragraph 3:

The minimum standard for basic water supply services is [...]

- b) a minimum quantity [...]
- (iii) (with an effectiveness such that no consumer is without supply for more than seven full days a year.

With respect to sanitation, the ideal situation is for every household to have access to a sanitation facility, but where this is not immediately possible, sanitation requirements must be assessed according to the needs of individuals and households. General standards can be applied for institutional settings, such as schools, workplaces and health institutions. In all cases, sanitation facilities must always provide water and soap for handwashing and menstrual hygiene management.

Where networked sanitation is not available, households are often responsible for arranging sanitation facilities themselves. The State then has a duty to raise awareness of the need for adequate sanitation and to ensure that the construction, maintenance, and the disposal and treatment of waste is regulated so that this complies with the human right to sanitation.

Last but not least, States have an important regulatory role to fulfil in the area of water and sanitation for places controlled by people other than the users of the water, such as workplaces and rented housing. The State must ensure that water and sanitation facilities are always present; this may be arranged through building codes or regulations that set standards. With respect to rented housing, care must be taken to ensure that high standards do not lead to unaffordable housing.

USA, Occupational Safety and Health Standards, Section 1910.141:

1910.141(b)(1)(i): Potable water shall be provided in all places of employment, for drinking, washing of the person, cooking, washing of foods, washing of cooking or eating utensils, washing of food preparation or processing premises, and personal service rooms.

1910.141(c)(1)(i): Except as otherwise indicated in this paragraph (c)(1)(i), toilet facilities, in toilet rooms separate for each sex, shall be provided in all places of employment in accordance with table J-1 of this section. [...]

.....

THE STATE HAS
A DUTY TO RAISE
AWARENESS OF THE
NEED FOR ADEQUATE
SANITATION

An example of a law⁵¹ ensuring sanitation in homes:

Benin, Law no.87-015, Public Hygiene Code, article 20:

Each owner shall provide his/her habitation with a sewerage system for excreta and domestic wastewaters, namely latrines, septic tanks and cesspools.

Policies

States must frame policies in order to ensure that water and sanitation services become progressively available to all. Often, investments in infrastructure and supply bypass some regions or communities. To comply with international human rights obligations, States must expand services so that substantive equality is measurably advanced, with a focus on those who are not served, in order to eliminate inequalities. Policies play a crucial role here, as they guide the prioritisation of action and investment. They should define clear targets and timelines for reaching a basic level of services for all, as well as intermediate steps along the way and the improvement of services beyond the basic level.⁵²

POLICIES GUIDE THE PRIORITISATION OF ACTION AND INVESTMENT

Kenya National Water Services Strategy, 2007–2015, Section 3.3, Goals of the National Water Services Strategy:

The Goals of the NWSS are:

- To increase sustainable access to safe water complying [with] the Kenyan standards, such as drinking water quality (formal service provision), from 60% to 80% in the urban setting by 2015, and to reduce the time taken to nearest public/communal outlet and back home to an average of 30 minutes.
- To increase sustainable access to water complying with the Kenyan standards, such as drinking water quality (formal service provision) from 40% to 75% in the rural setting by 2015 and reduce the distance to the nearest public/communal outlet to 2 km. [...]
- To increase access to waterborne sewage collection, treatment and disposal from 30% to 40% in the urban setting, and from just under 5% to 10% in the rural setting by 2015.

The National Policy for Safe Water Supply and Sanitation (1998) of Bangladesh

includes a provision for the prioritisation of people who are not yet served:

4. Strategy: The strategy of the National Drinking Water Supply and Sanitation Policy will be developed on the following principles: [...]
- e) Assigning priority to under-served and un-served areas; [...]
7. Policy Principles: Basic needs – It is necessary to expand and improve the water supply and sanitation services in order to satisfy the basic needs of the people. The need to expand these facilities is greater in the case of under privileged groups and regions. [...]

.....

THE LACK OF LAND
TENURE IN INFORMAL
SETTLEMENTS
OFTEN LEADS TO
INHABITANTS BEING
REFUSED ACCESS
TO WATER AND
SANITATION SERVICES

Common challenges

The challenges mentioned in the introduction can be addressed via laws, regulations and policies.

1. Lack of tenure security

As the lack of land tenure in informal settlements often leads to inhabitants being refused access to water and sanitation services, one approach is to make access to water and sanitation services independent of tenure status in the legal framework.⁵³

Brazil, Law of the Municipality of Porto Alegre, article 219:

The populations living in non-regularised settlements have the right to be served by municipal public services.

2. Prioritisation of use

Prioritisation of water resources for personal and domestic uses, as well as for subsistence farming, should be guaranteed in water resource laws, guiding, for example, water licensing for agriculture or industries.⁵⁴

Russian Federation, Water Code, Law No. 74-FZ 2006, article. 3:

The water legislation and normative acts adopted in accordance with this legislation are based on the following principles: [...]

- 5) priority of use of water objects for the purposes of drinking and domestic water supply before uses for other purposes. Their allocation to uses for other purposes is allowed only if sufficient water resources are available.

Similarly, in countries where droughts are common, restrictions on the use of water for non-essential domestic purposes are important to ensure availability for personal and domestic uses.

Australia, Water Act 2000:

Section 24: Limiting taking of water under section 20A(2)

- (1) If there is a shortage of water, the chief executive may, by publishing a notice, limit or prohibit the taking of water under section 20A(2) for –
 - (a) the domestic purpose of watering a garden; or (b) stock purposes generally.
 - (2) If the notice is for limiting the taking of water, the notice maybe for either or both of the following –
 - (a) the times when water may be taken;
 - (b) the volume of water, measured or estimated, that may be taken.
 - (3) The notice remains in force for the period stated in the notice or, if no period is stated, until the chief executive publishes another notice withdrawing the first notice.
 - (4) A person must not take water in contravention of the notice. Maximum penalty for subsection (4) – 500 penalty units.
-

3. Water and sanitation services in public places

In Paris, France, public drinking water and sanitation facilities can be used free of charge. This means that homeless people and people living in inadequate housing do at least have access to basic water and sanitation facilities. The network of public facilities includes public baths and showers, some of which are equipped with laundries.⁵⁵

In general, transgender and intersex individuals can face exclusion, denial of access, verbal harassment, physical abuse, and sometimes even arrest when using public sex-segregated sanitation facilities.⁵⁶ States cannot just dismiss this kind of discrimination as a social phenomenon over which they have no influence. Human rights are universal, and must be protected. States must take measures and establish programmes to combat the stigmatisation of and discrimination against these individuals, and anti-discrimination laws must then be enforced.

4. Sustainability of services

States must establish clear responsibilities for the sustainable operation of water and sanitation services. For decentralised solutions, sustainability is best ensured through technologies that can be maintained locally, with States playing a role in the regulation of services.

With respect to centralised networks, the Kenyan Model Water Services Regulations provide that:

Kenya, Model Water Services Regulations 2002, Section 19:

All Water Service Providers shall be under an obligation: - [...]

- e) To create and implement an Asset Management Plan and Procedures for Maintenance Services to provide for the efficient routine and preventative maintenance of the assets and facilities in accordance [with] relevant guidelines issued by the regulator.
- f) To undertake major repairs [of] assets when it can be shown that the major repairs are necessary due to the failure of the water service provider to fulfil its obligations of maintenance or repair of those relevant assets.

States must incorporate provisions into their constitutions, laws, regulations and/or policies to ensure that water and sanitation services are available to all.

SUSTAINABILITY IS
ENSURED THROUGH
TECHNOLOGIES
THAT CAN BE
MAINTAINED
LOCALLY



5.2. Physical accessibility

Laws

A general safeguard of everyone's human rights to water and sanitation is best enacted in a law. This should include both a general guarantee and specific guarantees for people who commonly face accessibility problems, such as persons with disabilities. This will ensure that the norms that establish precise details for time, distance, physical security and other particular needs cannot exclude people, even unintentionally. A general guarantee of access to water within a reasonable distance:

Namibia, Water Resources Management Act (24 of 2004), article 3:

This Act must be interpreted, and be reasonably and fairly applied, in a manner that is consistent with and promotes the following fundamental principles - [...]

b) access by every citizen, within a reasonable distance from their place of abode [...]

A law demanding that toilets be accessible for persons with disabilities:

India, Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1994, article 46:

Non-discrimination in the built environment

The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for- [...]

b. adaptation of toilets for wheel chair users; [...]

Regulations

Regulations serve to set minimum standards that give a practical meaning to the physical accessibility of water and sanitation facilities. To determine national standards for the location of water and sanitation facilities, States may use international minimum standards as guidance, while ensuring that these are not used as absolute values. For example, according to the WHO/UNICEF Joint Monitoring Programme, water outlets should be placed so that a round trip to fetch water will take a maximum of 30 minutes in order to ensure that a minimum quantity of water is collected. Where household sanitation is not possible in the short term, sanitation facilities should be shared by a maximum of five households.⁵⁷

A GENERAL
SAFEGUARD OF
EVERYONE'S HUMAN
RIGHTS TO WATER
AND SANITATION IS
BEST ENACTED IN
A LAW

An example relating to the maximum distance between a household and a water source:

South Africa, Regulations relating to compulsory national standards and measures to conserve water 2001, article 3s:

The minimum standard for basic water supply services is – [...]

(ii) within 200 metres of a household; [...]

Standards for the accessibility of sanitation facilities in the workplace can also be defined:

USA, Accessibility Guidelines for Buildings and Facilities 1996:

4.17 Toilet Stalls

4.17.1 Location. Accessible toilet stalls shall be on an accessible route and shall meet the requirements of 4.17. [...]

4.17.6 Grab Bars. Grab bars complying with the length and positioning shown in Fig. 30 (a), (b), (c) and (d) shall be provided. [...].

The barriers facing persons with disabilities must be considered.

India, Policy Circular No. 46, Pay and Use Toilets, Ministry of Railways:

3.II. Basic Amenities to be Provided: [...]

Separate toilets for ladies and gents, duly making one of the toilets disabled-friendly. [...]

Many countries include these kinds of standards in policies, rather than in regulations.

Sri Lanka, Rural Water Supply and Sanitation Policy 2001:

Section 3.2.2

[...] - The maximum haul of water to the dwelling of any user should not exceed 200m. In steep terrain this should be reduced with consideration to the effort for hauling water.

It is preferable to place provisions like these in regulations, as they are then directly linked to laws and can more easily be enforced and updated, whereas a policy is more perennial.

Policies

While regulations set standards for the design of water and sanitation facilities, the role of policies in making water and sanitation accessible for all is to schedule the implementation of these standards. Many public toilets are, for example, not within easy reach of households and do not comply with minimum accessibility standards for persons with disabilities. Policies should be made on the basis of an assessment of existing service levels; they should plan targeted improvements.

Rwanda, National Policy and Strategy for Water Supply and Sanitation Services 2010:

6.3 Targets and Indicators: Rural water supply coverage

1. Raise rural water supply coverage to 85% by 2012 and to 100% by 2020 by assisting the Districts to plan, design, finance and implement infrastructure projects.

In the above example, people living within 500m of an improved water source are defined as having access to rural water supply. Based on the 2008 baseline of 71% coverage, the policy establishes yearly benchmarks and aims for 90% coverage by 2014/15.

Places that require particular consideration

Even where the general legal framework regulates the accessibility of water and sanitation services in a satisfactory manner, there are places that require specific regulations to ensure accessibility for a specific group of users. Countries should make sure that they identify these places and regulate accordingly.

- Schools and kindergartens must have water, sanitation and hygiene facilities. A technical design manual for school sanitation, issued by the Kenyan Ministry of Education, adds further detail to what is laid out in the National School Health Policy of 2009:

The pit latrines should be located at an easily accessible distance from the classrooms and not in the farthest corner of the school compound.[...] They should also be visible from the main school to ensure the safety of the pupils.⁵⁸

- Care homes [and] assisted living spaces should ensure that toilets are accessible for all residents:

USA, State of Georgia, Rules and Regulations for Assisted Living Communities:

Bathing and Toileting Facilities: The assisted living community must provide bathing and toileting facilities that meet the accessibility needs of the residents and the following requirements [...]⁵⁹

- In detention centres, detainees must always be able to access water and sanitation facilities:

Panama, Executive Decree 393 of 2005, article 12 regulating the Panamanian penitentiary system:

1. Prisons, based on their classification, must have the following facilities: [...] toilets and bathrooms with adequate privacy [...]
4. Sanitation facilities shall comply with the requirements that allow the inmate to meet the needs of nature whenever necessary and in a clean and decent manner. [...]
7. Units in which inmates with physical disabilities reside will be adapted to the conditions of these users. [...]

SCHOOLS AND
KINDERGARTENS
MUST HAVE WATER,
SANITATION AND
HYGIENE FACILITIES

Challenges

1. Access in rural areas

There are significant impediments to delivering safe and affordable water and sanitation in rural locations, particularly where there are large distances between households or where water is scarce. While community-level user groups can manage some aspects of water-point management, States must put systems in place, through policies and regulations, to ensure that water and sanitation services are sustainable. (see *Services*, p.28)

States must incorporate provisions into their constitutions, laws, regulations and/or policies to ensure that water and sanitation services are accessible to all.



5.3. Quality and safety

Laws

Laws should guarantee that all water destined for human consumption is safe for this purpose.

Costa Rica General Health Law No. 5395 1973/1996, article 267:

Every water supply system destined for use and consumption by the population **must deliver drinking water**, in a continuous manner, in sufficient quantity to satisfy the needs of the population and with the pressure necessary to allow for the appropriate functioning of the sanitation devices being used.

Tajikistan, Law on State Sanitary Supervision No. 987, 1994, article 15:

Economic drinking water supply of the population

1. The inhabitants of cities and other settlements shall be provided with safe drinking water in sufficient quantities for the satisfaction of physiological and economic needs of humans. [...]

Water as a resource must also be protected from contamination; for example, by prohibiting the dumping of sewage or waste, and by enforcing the containment of any seepage from fertilizers, industrial effluents and other pollutants into the groundwater. Protection of water resources from contamination should be based on the precautionary principle.⁶⁰

Cote D'Ivoire Water Code, Law No. 98-755 1998:

48. Spills, the dumping of waste of any kind, or of radioactive waste, or of anything that may cause or increase the pollution of water resources is prohibited.
49. Any discharge of wastewater into the environment must respect the standards in force.

Lao PDR, Water and Water Resources Law No. 02-96/NA 1996, article. 30:

The Government will determine Water and Water Resource Protected Zones to ensure adequate supplies of water of sufficient quality to serve the drinking and domestic needs of people in both urban and rural areas. Protected zones shall be delineated with boundary fencing. No development, including building, agriculture, industry, extraction of rock, sand or wastewater and the dumping of garbage, chemicals, mine-tailings or any harmful material will be allowed within the Protected Zone. [...]

EU Drinking Water Directive, 98/83/EC of 3 November 1998, article 4:

1. Without prejudice to their obligations under other Community provisions, Member States shall take the measures necessary to ensure that water intended for human consumption is wholesome and clean. For the purposes of the minimum

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WATER MUST BE
PROTECTED FROM
CONTAMINATION

.....

requirements of this Directive, water intended for human consumption shall be wholesome and clean if it:

- (a) is free from any micro-organisms and parasites and from any substances which, in numbers or concentrations, constitute a potential danger to human health, and
- (b) meets the minimum requirements set out in Annex I, Parts A and B; and if, in accordance with the relevant provisions of articles 5 to 8 and 10 and in accordance with the Treaty, Member States take all other measures necessary to ensure that water intended for human consumption complies with the requirements of this Directive.

Laws against water pollution and for the regulation of household-level waste collection and disposal are a good way to ensure the proper disposal and treatment of wastewater in non-networked supply areas. Where there is a service provider that runs a networked supply system or is otherwise responsible for a certain area, States should define services as a right.

Peru, General Law 26338 1994, on Water and Sanitation Services, article 11:

Every person, natural or legal, residing within the area for which a service provider is responsible, has the right to be provided with the services offered by that entity, within the levels and technical conditions set for those services, in conformity with this law and corresponding regulations.

.....

THE REGULATION
OF WATER QUALITY
AND WASTEWATER
TREATMENT
PROVIDED IS
ESSENTIAL

Regulations

The setting of national standards relevant to the national context, regulating water quality and wastewater treatment provided by both public and private bodies, is essential. Standards must consider a range of common contaminants, as well as those that may only be prevalent in certain areas. An independent regulatory body, and the capacity of this body and the State to carry out regular monitoring of compliance with water quality and wastewater treatment standards, are important to ensure consistent performance from service providers.

A regulation to ensure the quality of water for sale, for example, at water kiosks:

Kenya, Model Water Services Regulations 2002, Section 72:

Quality and Handling of water

- (1) All portable water shall be from an approved point source which meets the quality standards set under these regulations and regulations issued by the Water Resources Management Authority, and shall not contain any constituent in quantities that may be injurious to health.
 - (2) Unless authorised by the water service provider, no water packaging for sale will be allowed from its connections. If such abstraction is allowed, the point of abstraction must be indicated in the package by the vendor otherwise it shall be an offence punishable according to the sanctions prescribed in these regulations.
-

In cases where water quality is compromised, the competent authorities should be obliged to inform the public about precautionary measures. In emergencies, the public must be informed immediately, and adequate procedures must exist for doing this. For example, the German regulation on drinking water demands the following in situations where benchmarks and standards for drinking water are not guaranteed:

[...] the affected consumers must be adequately informed and advised about feasible additional measures that they can take themselves, or necessary restrictions on their use of drinking water.⁶¹

An example of a regulation for the placement of on-site sanitation facilities to avoid contamination of groundwater:

Ethiopia, Construction Usage and Maintenance of Sanitary Latrine Extension Package:

5.8 Building latrine using local resource – 5.8.1. Site selection for latrine

- Must be sited at least 30 meters from any water source meant for human consumption and at lower gradient from water source.
- In order to avoid health risk and create convenience, the site should be at least 6 meters from living house and on the leeward side.
- The depth of the latrine should be reckoned in such a way [as] not to contaminate ground water.
- The latrine should be built in a site where air circulation is not obstructed.
- If not possible to bail out when full, site should be prepared to build new one.
- Latrine facility meant for public and institutions should be located in easily visible place.
- Ensure that there is a path or road to bail out when full.
- Latrine location should not be waterlogged and exposed to flooding.⁶²

Regulations should set standards to ensure that sanitation facilities are constructed in such a way as to prevent human, animal and insect contact with human excreta and facilitate good hygiene practice by including soap and water for hand washing. States should set regulations for workplaces, public spaces, hospitals, schools and kindergartens, as well as for rented housing, to ensure a safe construction, regular cleaning, and regular emptying of pits or other places that collect human excreta.⁶³ Menstrual hygiene management must also be facilitated through disposal facilities and culturally adequate options for cleansing.

MENSTRUAL HYGIENE
MANAGEMENT MUST
ALSO BE FACILITATED
THROUGH DISPOSAL
FACILITIES

Australia, New South Wales, Work Cover NSW Health and Safety Code of Practice 2001:

Section 5.1.2. Design

[...] Adequate and hygienic means for the disposal of sanitary items should be provided for female employees. Toilets should be kept clean and hygienic at all times [...]

Policies

Policies must plan for the expansion of adequate services to people who are not yet served, and for the continual improvement of services over time, setting targets and benchmarks. Policies should outline methods and plans for raising public awareness and changing people's behaviour, especially with respect to hygiene. States may refer to international monitoring standards on sanitation and water quality for guidance.⁶⁴

Common challenges**1. Ensuring safety of use**

Regulations can provide for extra safety requirements.

Kenya, Model Water Services Regulations 2002, Section 100:

A ventilated improved pit latrine must have [...]

d) Protection preventing children from falling into the pit [...]

2. Access to information

Access to information on water quality is essential to ensure that there is public trust in the quality of drinking water. However, this information is often available only in technical language without further explanation. In some countries this information is not available to the public, as the State considers that the general public would not understand the technical analyses and might misuse and/or misinterpret the information.⁶⁵

States must incorporate provisions into constitutions, laws, regulations and/or policies to ensure that water and sanitation services are safe to use.

POLICIES SHOULD
OUTLINE METHODS
AND PLANS FOR
RAISING PUBLIC
AWARENESS AND
CHANGING PEOPLE'S
BEHAVIOUR



5.4. Affordability

Laws

It is crucial that there be a general safeguard in law for the affordability of water and sanitation services for all users, including the people least able to pay. This necessity provides a point of departure for the drafting and revision of subordinate tiers of the legal framework, and a reference point for the judiciary in individual cases where affordability is at issue. While the aim of recouping investment costs and providing services effectively is important in order to ensure that services are financially sustainable, the aim of ensuring this sustainability at the macro level must never lead to situations in which individuals are unable to afford services. Affordability provisions in water and sanitation laws are common.

Namibia, Water Resources Management Act No.24 2004, article 26.1:

The Minister must ensure that all Namibians are provided with an affordable and a reliable water supply that is adequate for basic human needs:

Nicaragua, General law on drinking water and sanitation services, article 40:

The State will establish a rational system of subsidising the consumption of water and sanitation services for poor people who do not consume more than the basic amount. Funding for this subsidy will be established in the annual budget law.⁶⁶

Chile, Law 18778 establishing subsidies for the payment of drinking water consumption and sanitation services 1989/1994, article 10:

For investments in rural water systems, a subsidy may be granted to cover the difference between the costs and the amount fundable by users according to their ability to pay. [...] ⁶⁷

Regulations

Regulations must spell out the mechanisms that will ensure affordability of services for all. In establishing definitions of affordability, States may refer to international guidance. These vary significantly, and no one standard is appropriate for everyone, even within a single country.⁶⁸ There may be segments of the population for whom any payment is unaffordable and to whom the affordability standard cannot apply. Subsidised or free services should be considered for households with very low or no income.

.....

THE AIM OF
ENSURING
SUSTAINABILITY AT
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WHICH INDIVIDUALS
ARE UNABLE TO
AFFORD SERVICES

Affordability must be considered with respect to two kinds of expense: first, the cost of connection and/or construction, which is relatively high but not paid regularly. For expenses of this sort, subsidies, payment waivers and other mechanisms, such as in-kind contributions, can be established to ensure affordability. The second expense is the cost of the regular charges, such as tariffs, or operation and maintenance charges. These must be affordable; this can be ensured through an independent regulatory body that operates on the basis of human rights.⁶⁹ The cost of constructing water and sanitation infrastructure can be prohibitive for communities. The Rwandan National Policy includes the possibility of in-kind contributions by communities both in rural and in densely populated urban areas, especially for low-cost technologies.

Rwanda, Policy and Strategy for Water Supply and Sanitation Services 2010, Section 4.6.3:

In densely populated areas: 4.6.3 Implement cost recovery for collective sewerage systems. Communities shall be involved in project planning, construction and maintenance of simplified sewerage systems with the option to contribute in kind to reduce costs (lower tariffs).

REGULATIONS
MUST SPELL OUT
THE MECHANISMS
THAT WILL ENSURE
AFFORDABILITY OF
SERVICES FOR ALL

Some countries supply a free basic amount of water and free sanitation services for low income groups – sometimes even for everybody. This type of subsidy can be an administratively efficient way of ensuring a lifeline service for all, but it can raise questions of appropriate use of maximum available resources. (see Financing, p.29; Services, p.20; Monitoring, p.19)

South Africa, Durban, 4.6.6: Service Subsidy – Sanitation:

[...] b) Informal communities are served by communal toilet blocks which are both provided and serviced at no cost to the community. [...] ⁷⁰

Belgium, Decree of the Flemish Council, 20 December 1996, amending the 1933 Law on the Protection of Drinking Water § 3: Special provisions for Flanders region:

The municipalities, [...], and all other enterprises responsible for public water supply, are obliged [...] to provide all households connected to the public water grid, per annum, with 15 m³ of tap water per person residing at the address of the connection to the public water grid, free of charge.⁷¹

Policies

In order to ensure affordability progressively for all users, States should use policies to assess affordability at the household level when making plans to improve service provision. The people who would be least able to pay without compromising their ability to pay for other vital services must be identified, and affordable services made available to them.

Lesotho, Interim Strategy for the water and sanitation sector in Lesotho, 2010-2012:

Access to water supply [...]

Section 4.2.4.1: Affordability for households to connect is one of the bottlenecks for increasing [...] access. The Interim Strategy will therefore focus on developing strategies for assuring a minimum of 30 l/capita/day to the poorer households, as enshrined in the Water Policy. WASA [Water and Sanitation Authority] is already testing different methods for making connections more affordable and this will be intensified. The strategy will focus on increased access to public standpipes using the pre-paid technology and [on] ways of making domestic connections affordable (subsidies, staged payments etc.). [...]

Section 4.2.1, Objective 2, l): As a way of promoting equity, the Government shall endeavour to ensure that the maximum expenditure on water shall not exceed 5% of disposable income, and that the water service providers apply a uniform tariff in all areas as opposed to regional tariffs; [...]

Common challenges

1. Disconnections

Legal frameworks must put adequate procedural safeguards in place in cases of disconnection for non-payment, so that the reason for non-payment is established prior to any disconnection, and users must then be given the chance to pay arrears. Where households are unable to pay, disconnections may not be permitted.

Institutions where users are particularly reliant on water and sanitation services should never be disconnected. This includes health-care centres, schools and kindergartens, prisons, and homes for the elderly. [\(see Services, pp.40-42; Justice, p.8\)](#)

South Africa, Section 4, Water Services Act, No. 108, 1997:

[...] 3. Procedures for the limitation or discontinuation of water services must – [...]

- c) not result in a person being denied access to basic water services for nonpayment, where that person proves, to the satisfaction of the relevant water services authority, that he or she is unable to pay for basic services, [...]

States must incorporate provisions into their constitutions, laws, regulations and/or policies to ensure that water and sanitation services are affordable to all.

5.5. Acceptability

Laws

Participation is crucial to ensure that the technology and design of water and sanitation facilities will be acceptable to users, for example, in terms of allowing good hygiene practice. Including the concept of acceptability in laws is necessary but insufficient, as the only way to ensure genuine acceptability is with the full participation by users of the service in decisions about technology and design.

Regulations

The regulatory framework must give the notion of acceptability a practical meaning in the context of each country. It is difficult to generalise about which specifications should be made – squat toilets are preferred in some cultures, seated toilets in others; the use of water or toilet paper for cleaning after defecation depends on culture, and the preferred materials for menstrual hygiene management vary. However, a range of standard technologies can be provided as a guide for building requirements.

THE ONLY WAY TO ENSURE GENUINE ACCEPTABILITY IS WITH THE FULL PARTICIPATION BY USERS OF THE SERVICE

South Africa, Durban, Temporary Supply of Water and Sanitation to Informal Settlements:

1.4.3. Sanitation

Sanitation is provided by means of either

- i) An ablution block connected to Municipal waterborne reticulation (an ablution block consists of toilets, showers, and clothes washing facilities)
- Or
- ii) A toilet block where no connection to waterborne reticulation is available (a toilet block consists of toilets and urinals only with no water supply provided to the toilet block). Each toilet is provided with its own VIP [Ventilated Improved Pit] [...] which will be emptied as and when required.⁷²

Policies

In order to ensure that all water and sanitation facilities will progressively meet acceptability standards, States should assess whether and how far existing facilities conform to general acceptability standards, paying special attention to shared facilities. Policies should then be devised, setting clear targets and responsibilities for meeting these standards. States that want to ensure acceptability should solicit the participation of service users before making decisions about the kinds of service they establish. Last but not least, policies play an important role in working towards the elimination of practices that are unacceptable from the perspective of human rights. An example of the right to participate in decision-making:

Namibia, Water Supply and Sanitation Policy 2008:

2.2 Overall sectoral policy statement

3. Communities should have the right, with due regard for environmental needs and the resources and information available, to determine which water and sanitation solutions and service levels are acceptable to them within the boundaries of the national guidelines. [...]

.....

POLICIES PLAY AN
IMPORTANT ROLE IN
WORKING TOWARDS
THE ELIMINATION OF
PRACTICES THAT ARE
UNACCEPTABLE FROM
THE PERSPECTIVE OF
HUMAN RIGHTS.

Common challenges

A number of social practices exist that are unacceptable from a human rights perspective, particularly with respect to sanitation and associated hygiene.

1. Restrictions faced by women and girls during menstruation

The Supreme Court of Nepal has outlawed the practice of chhaupadi (compelling menstruating women to live in secluded and unsafe huts outside the home) and directed the Government to formulate laws against it, but further action must be taken to change behaviour and practice.⁷³

States must incorporate provisions into their constitutions, laws, regulations and/or policies to ensure that water and sanitation services are culturally acceptable to all users.

06. Checklist

State Actors	
Constitution	
	Yes In progress No
Does the Constitution guarantee water and sanitation as clearly defined human rights that can be claimed by all?	<input checked="" type="radio"/> <input type="radio"/> <input type="radio"/>
Does the Constitution guarantee that equality and non-discrimination have the status of overarching legal principles? Does the Constitution also include the concept of affirmative action?	<input checked="" type="radio"/> <input type="radio"/> <input type="radio"/>
Is the right to a remedy and/or access to justice enshrined in the Constitution?	<input checked="" type="radio"/> <input type="radio"/> <input type="radio"/>
Are independent oversight bodies established by the Constitution? Are these bodies competent to hear individual complaints?	<input checked="" type="radio"/> <input type="radio"/> <input type="radio"/>
Laws and/or regulations	
Please note: The elements in the checklist may figure in laws and/or in regulations, depending on the constitutional or legal framework	
Do laws and/or regulations define the human rights to water and sanitation, using the legal content of availability, accessibility, quality, affordability and acceptability, as guaranteed under international human rights law, as a basis to give substance to these rights?	<input checked="" type="radio"/> <input type="radio"/> <input type="radio"/>
Are standards regularly reviewed, and do standards progressively improve over time?	<input checked="" type="radio"/> <input type="radio"/> <input type="radio"/>
Does standard-setting take account of the barriers facing particular individuals?	<input checked="" type="radio"/> <input type="radio"/> <input type="radio"/>
Do standards take into account which type of service would be most efficient in the context of the local situation?	<input checked="" type="radio"/> <input type="radio"/> <input type="radio"/>
Are there building requirements and regulations in place that cover general standards for water and sanitation facilities; for example, toilets in rented accommodation, the provision of single-sex toilets in public places?	<input checked="" type="radio"/> <input type="radio"/> <input type="radio"/>
Is there an independent regulatory body in place that operates on the basis of human rights and is tasked to set standards based on the legal content of the human rights to water and sanitation?	<input checked="" type="radio"/> <input type="radio"/> <input type="radio"/>
Has the State undertaken any measures to regulate water supply by informal vendors?	<input checked="" type="radio"/> <input type="radio"/> <input type="radio"/>
Do the State and/or providers give access to formal water and sanitation services to households regardless of their tenure status?	<input checked="" type="radio"/> <input type="radio"/> <input type="radio"/>
Non-discrimination and equality	
Are there laws and/or regulations in place that prohibit direct and indirect discrimination and promote equality in access to human rights?	<input checked="" type="radio"/> <input type="radio"/> <input type="radio"/>

Information	
	Yes In progress No
Are there laws and/or regulations in place to ensure that everyone, including people who live far from centres of information and people who cannot read, is able to access information relating to water and sanitation services, in relevant languages and formats?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Participation	
Are there laws and/or regulations in place that guarantee that full, free and meaningful participation takes place before any decision is finalised, including participation in the process of developing any laws, regulations or policy level documents?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Do laws and/or regulations set out precise rules on participation in matters of infrastructure, service levels, tariffs, and the operation and maintenance of water and sanitation services?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Accountability	
Are there effective complaint mechanisms at the level of the service provider?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Are there quasi-judicial bodies available that can resolve conflicts?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Can individuals enforce their rights against both the State and private actors?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Are remedies provided by law; for example, restitution, compensation, legally binding assurances of non-repetition, and corrective action?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Do laws and/or regulations provide for mechanisms that ensure individual complaints are effectively heard, and processed in a timely way?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Availability	
Where people do not have access to a networked water supply system, do laws and/or regulations provide for the right of everyone to use natural resources for domestic and personal uses?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Do laws and/or regulations prioritise water for personal and domestic uses over other uses?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Does the legal definition of sanitation include not only the instalment of the toilet, but also the collection, transport, treatment, disposal or reuse of human excreta, and associated hygiene? Do regulations include guidance on safe construction, regular cleaning, and emptying of pits or other places that collect human excreta?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Do laws and/or regulations clearly spell out what “availability of water and sanitation” means in different settings where people spend significant amounts of time, including homes, workplaces, schools and kindergartens, hospitals and health care centres, places of detention and public places?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Do laws and/or regulations specify that facilities allowing for hand-washing, and for women and girls to practice good menstrual hygiene, must be available in schools and other public institutions?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Do standards include a minimum amount of water to be available, and a maximum permitted interruption of services?	<input type="radio"/> <input type="radio"/> <input type="radio"/>

Accessibility	
	Yes In progress No
Do laws and/or regulations take into account the maximum distance and time it takes to reach a facility, as well as the location of the facility, in order to ensure the physical security of users; do these standards consider the barriers faced by particular individuals and groups?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Are the State and/or service providers obliged to give access to formal water and sanitation services to households regardless of their tenure status?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Quality and safety	
Are there laws and/or regulations in place that protect the quality of water resources; for example, by prohibiting the dumping of sewage and waste and demanding the containment of any seepage of fertilizers, industrial effluents and other pollutants?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Do regulations set standards on water quality and wastewater treatment, and are they relevant for both public and private service providers?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Are water quality standards set according to the national and local contexts, considering contaminants that occur only in specific regions?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Are there regulations on householders' arrangements for waste collection and disposal?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Affordability	
Do regulations provide for mechanisms that ensure the affordability of services for all, while considering connection costs, operation and maintenance; do regulations establish subsidies, payment waivers and other mechanisms to ensure affordability?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Do regulations provide opportunities for users to pay their arrears, or to receive services for free, when they are unable to pay?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Is there an independent regulatory body in place that operates on the basis of human rights and is tasked to determine the affordability of services, including the setting of tariffs?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Policies	
Is there a comprehensive water and sanitation policy in force that integrates the human rights to water and sanitation and their legal content?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Is the policy reviewed regularly to track discriminatory effects; if it is found to discriminate, is it repealed or amended?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Are existing inequalities in accessing water and sanitation currently assessed? Are there plans and policies developed that use indicators and benchmarks to assess both the steps taken and the results achieved in the elimination of inequalities in water and sanitation service provision?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Are there enough public facilities in place and planned to ensure that people without domestic access to water and sanitation can use these as intermediate solutions?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Continued...	

Policies continued...	
	Yes In progress No
Does the State provide for measures raising awareness of the possibility of obtaining information; for example, information about water and sanitation services, management and infrastructure?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Are there programmes and policies in place that guarantee and encourage the participation of all stakeholders?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Do policy-level documents plan for clear assessments of current accessibility standards?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Are there any mechanisms or programmes to train local authorities in how to manage budgets, tariffs and the operation and maintenance of facilities?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Is there a policy that outlines processes for ensuring water safety?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Are the people who are least able to pay identified, and are there specific targeted programmes to ensure that water and sanitation services are made affordable for them?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Are there policy-level documents that outline methods and plans for raising awareness and changing behaviour, especially with regard to hygiene practices?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Do policy-level-documents set clear targets and timelines for reaching a basic level of service for all?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Do policy-level documents set clear targets and responsibilities for meeting general acceptability standards?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Are there policies in place that effectively organise awareness raising and education programmes to eliminate unacceptable practices; for example, manual scavenging, and the exclusion of women from daily life during menstruation?	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Are there policies in place that plan to improve services continually over time?	<input type="radio"/> <input type="radio"/> <input type="radio"/>



07.

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