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

## **Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque**

### **Addendum**

### **Compilation of good practices**

#### *Summary*

The Special Rapporteur on the human right to safe drinking water and sanitation submits the present report to the Human Rights Council in accordance with Council resolution 7/22. In the report, the Special Rapporteur reports on good practices for the implementation of the rights to water and sanitation of a range of stakeholders, including State bodies (national and local), international agencies, service providers, non-governmental organizations and civil society, and covers many approaches to realizing the rights to water and sanitation, including legislation, planning, service delivery, advocacy and capacity-building, monitoring and litigation.

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## I. Introduction

1. The present report is submitted in accordance with Human Rights Council resolution 7/22, in which the Council called upon the Special Rapporteur on the human right to safe drinking water and sanitation to prepare a compendium of best practices.

2. In undertaking the above-mentioned task, the Special Rapporteur announced her intention to collect “good” rather than “best” practices, as explained in her first report submitted to the Human Rights Council.<sup>1</sup> She also observed that since “good” was a subjective concept, it was critical to first elaborate criteria against which to judge a practice from a human rights perspective, and then apply the same criteria to all practices under consideration. These criteria were discussed with various stakeholders at a consultation convened by the Special Rapporteur in Lisbon in October 2009. The outcome was the identification of 10 criteria, 5 of which are normative (availability, accessibility, quality/safety, affordability and acceptability) and 5 cross-cutting (non-discrimination, participation, accountability, impact and sustainability). The criteria are explained in her progress report on good practices.<sup>2</sup>

3. While practices may not meet all 10 criteria, they should specifically aim to achieve at least some of the aspects, and must not undermine any of the other criteria.

4. The Special Rapporteur prepared a questionnaire and invited submissions of good practices from all stakeholders based on this framework. She also organized seven consultations with Governments, civil society organizations, national human rights institutions and regulators, development cooperation agencies, the private sector, service providers and United Nations agencies. On the basis of 157 written answers to the questionnaire and the dozens of practices presented at stakeholder consultations, the Special Rapporteur prepared the present compilation of good practices.<sup>3</sup>

5. While the State is responsible for ensuring the realization of the rights to water and sanitation, the present report will consider a wide range of practices by different stakeholders in many environments. Partnership between stakeholders, whether concerning legislative design and policy, the delivery of services or advocacy and capacity-building, is a consistent theme in all the practices presented.

6. The present compilation, which is subject to United Nations documentation word limits, does not present every good practice received by the Special Rapporteur.<sup>4</sup> She has gained important insights from all of the submissions received and is grateful to all the organizations and individuals who engaged in this process. She intends to publish a book in 2012, which will go into greater detail about the practices in the report and also include others that could not be addressed here owing to lack of space.

## II. Legal and institutional frameworks

7. Human rights law places considerable importance on the explicit recognition of rights. The significance of enshrining a right in a legal framework is to confer on people an

<sup>1</sup> A/HRC/10/6, para. 34.

<sup>2</sup> A/HRC/15/31/Add.1.

<sup>3</sup> All submissions are available from [www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/StakeholdersGPQuestionnaire.aspx](http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/StakeholdersGPQuestionnaire.aspx).

<sup>4</sup> The practices which are included are based on the descriptions contained in the submissions received and the Special Rapporteur did not have the capacity to verify each of the practices.

entitlement; standards and approaches can then be defined in relevant laws and policies. In this section, the Special Rapporteur examines initiatives at the international and regional levels to recognize the right to water and sanitation and legal frameworks, strategies, plans and regulatory systems developed by States.

## **A. International and regional frameworks and initiatives**

8. In 2002, the Committee on Economic, Social and Cultural Rights adopted general comment No. 15, in which it clarified standards for the right to water and pointed out the importance of sanitation and hygiene to realize that right. The general comment has played a catalytic role in further developments in the right to water. Subsequently, in 2010, the Committee issued a statement on the right to sanitation, contributing to greater understanding of that right.<sup>5</sup> Germany, Spain and Bolivia (Plurinational State of) have been at the forefront of international initiatives in the rights to water and sanitation, and worked to secure the initial appointment of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation by the Human Rights Council in March 2008, the General Assembly resolution 64/292, in which the Assembly recognized the right to water and sanitation, in July 2010, and the Human Rights Council affirmation of this recognition by consensus, in its resolution 15/9, the same year. In March 2011, recognizing the significance of the resolutions adopted in 2010, the Council, in its resolution 16/2, changed the title of the mandate to the Special Rapporteur on the human right to safe drinking water and sanitation and extended it for a further three years. These political developments have had a positive impact by confirming the rights to water and sanitation as legally binding for all States party to the International Covenant on Economic, Social and Cultural Rights and other human rights treaties, promoting the formation of international customary law in this area and requiring that States create an environment conducive to the realization of these rights. The above-mentioned resolutions also sent an important signal of the significance of human rights in achieving universal access to water and sanitation.

### **Economic Commission for Europe Protocol on Water and Health**

The Protocol on Water and Health, of the Economic Commission for Europe (ECE) and the World Health Organization (WHO), signed in 1999 aims to ensure universal access to safe drinking water and adequate sanitation by linking water management and health issues. The Protocol shares the same principles as the rights to water and sanitation, with specific attention paid to equitable access. To date, 24 parties have signed the Protocol, while many other countries are in the process of accession.

The Protocol stresses the importance of the participation of all stakeholders, including the private sector and civil society, and provides an opportunity to redesign policies and programming. Parties are accountable for their progress through a compliance review. The first reporting cycle on implementation, concluded in April 2010, showed that the Protocol had triggered national action to improve access, although institutional, social and economic challenges remained. The water and sanitation sectors were particularly fragmented in countries with economies in transition, and there were insufficient resources to respond to the need to renovate existing, and build new, water supply and sanitation systems.

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<sup>5</sup> E/C.12/2010/1.

9. The rights to water and sanitation have also been prioritized in international initiatives in the context of development cooperation. The development cooperation of Germany has, for example, provided instrumental assistance in incorporating the right to water and sanitation into the water sector reform in Kenya. The Water and Sanitation Fund of the Agency for International Cooperation and Developments (Spain) dedicates US\$ 1.5 billion<sup>6</sup> to improve policies and planning processes for water and sanitation delivery, incorporating the human right to water, with a particular focus on highly indebted poor countries in Latin America.

10. The partnership of developing countries, donors, multilateral agencies and civil society, Sanitation and Water for All,<sup>7</sup> was initiated in 2010 to increase political prioritization for sustainable sanitation and drinking water, focusing on the mutual accountability of Governments and development partners. The immediate focus is on achieving the Millennium Development Goals in countries that are not on track to meet them.

11. In a similar vein, the Water Supply and Sanitation Collaborative Council launched the Global Sanitation Fund<sup>8</sup> in 2008 during the International Year of Sanitation, encouraging donors to make multi-year commitments to facilitate long-term financial planning. The Fund has already been instrumental in developing good collaborative practice between Government and civil society in Madagascar, Senegal and Nepal.

12. WaterAid, an international non-governmental organization focusing on water and sanitation for the poor, has recently incorporated a commitment to promoting and securing the rights of people living in poverty into their global strategy, with national offices developing rights-based approaches into their own strategies and budgets.<sup>9</sup> WaterAid has also integrated the concepts of equity and inclusion throughout the organization, ensuring that the needs of people with disabilities and those who are traditionally excluded are included in project design and implementation.

## B. National legal frameworks

13. States are increasingly recognizing the rights to water and sanitation in domestic legislation, with some countries having also recognized the rights to water and/or sanitation in their constitutions.<sup>10</sup> This is critical for ensuring that the rights to water and sanitation are integrated into policies and programmes, relevant standards are set and the necessary regulatory framework is established.

### South Africa

The right to water is enshrined in the Constitution of South Africa of 1996<sup>a</sup>, the 1997 Water Services Act<sup>b</sup> includes recognition of the right to sanitation. This legal framework has been used to ensure the development of appropriate policies and strategies and to secure financing to ensure implementation of the rights.

<sup>6</sup> See [www.aacid.es/web/es/aacid/normativa/fondos/Fondo\\_de\\_Cooperacion\\_para\\_Agua\\_y\\_Saneamiento/003.html](http://www.aacid.es/web/es/aacid/normativa/fondos/Fondo_de_Cooperacion_para_Agua_y_Saneamiento/003.html).

<sup>7</sup> See [www.sanitationandwaterforall.org](http://www.sanitationandwaterforall.org).

<sup>8</sup> See [www.wsscc.org/gsf](http://www.wsscc.org/gsf).

<sup>9</sup> See [www.wateraid.org](http://www.wateraid.org).

<sup>10</sup> Countries recognizing the human rights to water and/or sanitation in their constitutions include Belgium, Bolivia (Plurinational State of), the Congo, Ecuador, Kenya, Maldives, Nicaragua, the Niger, the Solomon Islands, South Africa and Uruguay.

The Water Services Act sets the norms and standards defining “basic water supply” and “basic sanitation”, and identifies the roles and responsibilities of different Government entities to ensure, inter alia, participation and mobilization of all available resources. It compels the Minister for Water Affairs to establish and maintain a national information system on water services, essential for monitoring the impact of relevant policies and practices. The 2002 Free Basic Water Implementation Strategy sets out the framework for the supply of 6,000 litres of free, safe water per household per month, and was followed in 2009 by the Free Basic Sanitation Implementation Strategy. The National Framework for Municipal Indigent Policies<sup>c</sup> sets out how these strategies are to be realized for those living in poverty.

The 2003 Strategic Framework for Water Services<sup>d</sup> was developed to align policies, legislation and strategies within the water sector, while the 2008 National Water and Sanitation Regulatory Strategy outlines 11 key performance indicators, including water quality and customer service standards, to ensure compliance with the Water Services Act.

A particular measure relating to realising the right to sanitation is the Bucket Eradication Programme.<sup>e</sup> Prior to 1994, there were nationally some 250,000 households in townships using bucket latrines. In 2005, the Government launched the Programme with the aim of replacing all bucket latrines with safe, acceptable sanitation by December 2007. By March 2008, 91 per cent of buckets had been replaced by better alternatives, such as VIP latrines and flush toilets, consistent with the right to sanitation.

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<sup>a</sup> Available from [www.info.gov.za/documents/constitution/1996/a108-96.pdf](http://www.info.gov.za/documents/constitution/1996/a108-96.pdf).

<sup>b</sup> Water Services Act 1997 (No. 108 of 1997).

<sup>c</sup> See <http://fbs.dplg.gov.za/fbs/site/index.php?action=docs&Itemid=1>.

<sup>d</sup> Framework for Water Services in 2003, available from [www.info.gov.za](http://www.info.gov.za).

<sup>e</sup> <http://www.info.gov.za/speeches/2007/07050711151001.htm>.

14. Full and meaningful participation is a defining tenet of the human rights framework. In Brazil, the 2007 Law on Environmental Sanitation, itself developed through a multi-stakeholder process, expressly states the centrality of participatory processes to achieve the goal of universal access, with a focus on poor and marginalized groups. Service providers are responsible for delivering services to all those living in urban areas, including informal settlements, with a requirement for extensive participation in decision-making processes through the Council of Cities. This multi-stakeholder body is set up to discuss and make decisions on urban issues, including allocation of resources. In order to receive funds from the central Government, each municipality needs to develop a fully articulated plan, including data collection and monitoring processes.

### **C. National policies, planning and programming**

15. Including the rights to sanitation and water in the national legal framework is a critical step for embedding human rights in the sector. However, without good policies and planning to ensure that these laws are implemented, the rights cannot be realized. Bringing national policies and plans into compliance with human rights standards requires significant sectoral reform, in line with the criteria outlined in paragraph 2 above.

16. Recognizing that poorer, marginalized and isolated rural populations often lack access to water and sanitation services, the National Programme for Rural Water and Sanitation in Peru<sup>11</sup> focuses specifically on improving water and sanitation access in rural areas and smaller cities, as well as building local capacity to manage these systems effectively. Similarly, Paraguay has initiated a programme, to expand the water and sanitation network, whereby access to drinking water and basic sanitation must be integrated into all Government housing projects. The Government of Paraguay is increasingly moving towards a more participatory model by including civil society in the design and implementation of projects.

17. Hungary also prioritizes access for low-income and disadvantaged groups, having developed national legislation and a national environmental plan that addresses access to water and sanitation and focuses on the Roma community. Affordability is addressed through a combination of cross-subsidies, State assistance and debt management schemes, as well as a comprehensive disconnections policy designed to ensure that people always have access to at least minimum amounts of water for personal and domestic uses.

### **Kenya**

Government reform in Kenya to create a pro-poor, rights-based focus in the water and sanitation sectors was initiated in the legal framework by the 2002 Water Services Act,<sup>a</sup> and has been continued by the 2010 Constitution recognizing the human rights to water and sanitation.<sup>b</sup> The policy and planning framework reflects this rights-based focus through the 2007 National Water Services Strategy and the 2007 Pro-Poor Implementation Plan for Water and Sanitation.<sup>c</sup> A comprehensive range of institutions has been created or reformed, defining roles and responsibilities in ensuring access to water and sanitation for all, including reform of the Ministry of Water and Irrigation and the creation in 2002 of the Water Services Trust Fund<sup>c</sup> and of the Water Services Regulatory Board in 2003.<sup>d</sup>

The National Water Services Strategy sets ambitious targets to increase access to water in urban areas (from 60 to 80 per cent) and in rural areas (from 40 to 75 per cent) by 2015. The Water Services Trust Fund was set up to focus exclusively on informal settlements in an effort to fast-track access by providing service providers with financial incentives to extend services to these areas and to eliminate the heavy reliance on informal service providers, as these generally charge considerably higher prices than the formal sector and offer no guarantees of service quality.

Water kiosks sell safe water at controlled affordable prices as stipulated by the new Kenyan tariff guideline, and offer alternative payment options for those who cannot budget for a monthly bill. The guideline demands pro-poor tariff structures and establishes a maximum of 5 per cent of household expenditure on water and sanitation. The Trust Fund also carries out a slum-mapping exercise, Maji Data,<sup>d</sup> to monitor access to water and sanitation for the poor.

The Water Services Regulatory Board is responsible for developing regulations and minimum standards and for approving tariffs. Water utilities must adhere to these minimum standards and consider affordability in their tariff structure. They are also required to set up adequate complaints mechanisms, including customer-care desks and surveys to measure customer satisfaction and to expose corruption. Additionally, the Board empowers consumers and the unserved

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<sup>11</sup> See [www.vivienda.gov.pe/pronasar/index.html](http://www.vivienda.gov.pe/pronasar/index.html).

to organize themselves in “water action groups”, assisting them to become a formal negotiating partner with the utilities, providing feedback on consumer concerns and commenting on tariff adjustments.

An annual impact report by the Water Services Regulatory Board informs the public about progress made, focusing on targets such as access figures, water quality and cost of operation and maintenance.<sup>d</sup>

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<sup>a</sup> Water Act No. 8 2002.

<sup>b</sup> Available from: [www.kenyalaw.org/Downloads/The%20Constitution%20of%20Kenya.pdf](http://www.kenyalaw.org/Downloads/The%20Constitution%20of%20Kenya.pdf).

<sup>c</sup> Ministry of Water and Irrigation, National Water Services Strategy (2007–2015), September 2007.

<sup>d</sup> See [www.wasreb.go.ke](http://www.wasreb.go.ke).

18. Target-setting is an important aspect of ensuring progress towards realistic goals, playing an important role in planning and budgeting processes. Nepal aims to be able to ensure an adequate supply of, and universal access to, both water and sanitation by 2017. This ambitious target of universal access is broken down into specific subtargets, differentiated by basic-, medium- and high-quality levels of supply, and includes hygiene awareness. For instance, 27 per cent of the population are expected to have medium- or high-quality water services by 2017, and 50 per cent by 2027.<sup>12</sup>

## D. Regulation

19. To ensure that water and sanitation standards are upheld, monitored and protected, many States have created independent regulators. A regulator can play a range of different roles, including examining water and sanitation services for compliance with relevant standards; providing a place where complaints can be lodged; setting tariffs to ensure that services are affordable; and monitoring non-discrimination and access by marginalized or vulnerable groups. Effective regulators are independent and endowed with the capacity to carry out their mandate, in terms of human and financial resources and political support. Countries have interpreted the role of the regulator in accordance with the needs and norms of the local situation, leading to a range of different policies and institutional set-ups.

20. In Mozambique, the Water Regulatory Council<sup>13</sup> is involved in decisions regarding service delivery standards and affordability in order to ensure access for people in poverty, particularly in slums. The regulator has found that, to deliver services effectively, it is necessary to go beyond traditional models, to understand who does not have access and why, and find solutions based on the reality on the ground. Mozambique promotes the restructuring of tariffs to improve affordability, including by providing alternatives to paying a monthly bill and restructuring the connection charge so that it is included in a longer term bill, while still allowing for profitable service delivery. All options of service are considered, including legalizing the resale of water from a neighbour’s yard tap and other informal approaches. The regulator supports the regularization of tenure status, promoting upgrading from low-tenure security to a situation with more security. For sanitation, both on- and off-site options are considered, with an emphasis on encouraging greater coverage through business models.

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<sup>12</sup> Nepali National Water Plan, available from: [www.moen.gov.np/pdf\\_files/national\\_water\\_plan.pdf](http://www.moen.gov.np/pdf_files/national_water_plan.pdf), p. 29.

<sup>13</sup> See [www.cra.org.mz](http://www.cra.org.mz).



21. The Latin American network of water regulators, ADERASA,<sup>14</sup> was established to share experiences. One of the network's focus areas is benchmarking, target-setting and monitoring, particularly for water quality testing and affordability. While not all members of the network are yet able to provide comprehensive figures, the exchange of information provides guidance for regulators on the relevance of the monitoring process.

22. The Portuguese regulator, ERSAR, has played a critical role in ensuring universal access to water and sanitation by recommending social and family tariffs and a gradual elimination of connection charges. The costs of connecting new users are incorporated into tariff charges throughout the contract lifetime, to reduce barriers to services. Target groups include large families, low-income and unconnected households, with financing coming from cross-subsidies in the tariff structure and tax revenues obtained from municipal activities.

23. The regulator for England and Wales, OFWAT, which is responsible for financial aspects of water and sanitation service provision, has developed policies and strategies to ensure that services are affordable for all. This includes not only a policy that provides capped bills for those living in large households, those living with an illness that requires large quantities of water or for those living on social benefits, but also an assistance centre that provides guidance on how to improve water efficiency. Moreover, the Water Industry Act of 1999<sup>15</sup> prohibits disconnection from the water service for the non-payment of bills.

### **III. Financing and budgeting**

24. Ensuring sustained access to water and sanitation has significant cost implications, as reaching the unserved and underserved, often living in remote areas or informal settlements, can be expensive.

25. Governments must ensure that available funds are well targeted, that they benefit those most in need and are spent in a manner that supports sustainable systems. Financing and budgeting considerations must be addressed in the context of national planning processes to ensure that services are affordable and of an adequate standard.

#### **A. Targeted budget allocation**

26. Some States allocate specific funds to improve access to water and sanitation for poor communities. For instance, Bangladesh earmarks 20 per cent of its pro-poor annual development plan funds for sanitation and hygiene promotion and recommends that 75 per cent of this allocation be used for free latrines for the families living in extreme poverty and 25 per cent for promotional activities. Subsidized hardware is also given to public places like schools or markets. Furthermore, Bangladesh is carrying out an assessment of access to sanitation in the country, and will use this to develop an action plan, using the skills and experience of the Government, non-governmental organizations and others, with the aim of ensuring sanitation for all by 2013.

27. In Zambia, the Devolution Trust Fund was created in 2003 to provide utilities with grants to extend water and sanitation services to poor urban areas via kiosks and household connections. Community members are represented in the project task team and decide where the kiosks are to be placed, and water watch groups act as an accountability mechanism. The regulator establishes tariffs for the sale of water at the kiosks, cross-

<sup>14</sup> See [www.aderasa.org](http://www.aderasa.org).

<sup>15</sup> See [www.legislation.gov.uk/ukpga/1999/9/contents](http://www.legislation.gov.uk/ukpga/1999/9/contents).

subsidized by richer water consumers served by the same utility. The Fund also provides funding for individual household waterborne sanitation facilities, billed as a percentage of water used.

28. Even targeted funding, however, often fails to reach those most in need, particularly those living in informal settlements. To counter this, in Manila, the Output-Based Aid project, managed by the World Bank, releases funding to the utility, the Manila Water Company, only on completion of connections to poor households. Local government agencies and Manila Water have adopted approaches to assess household eligibility for subsidized connections.

29. Operation and maintenance costs are often underestimated, with budgets available for initial construction, but insufficient attention paid to sustaining the services. This issue has been explored by the International Water and Sanitation Centre in their WASHCost<sup>16</sup> programme, which has carried out research in Burkina Faso, Ghana, Mozambique and India into the life-cycle cost of different technologies.

30. The Clean Water Programme in Kyrgyzstan also recognizes the need for better financing for operation and maintenance, and has ensured that additional funding specifically for annual repairs is transferred to the local authority budget. Rural water-user unions have been established to encourage participation in decision-making and to ensure relevant capacity-building. The unions also have the role of ensuring affordability, with local authorities providing subsidies to households with incomes below the poverty level.

## **B. Subsidies**

31. To ensure the sustainability of water and sanitation services, some States require service providers to recover their costs by means of user charges, particularly for expenses relating to treatment, operation and maintenance. This can result in unaffordable tariffs for people living in poverty or in areas where service provision is expensive to deliver. Specific mechanisms must be put in place to ensure that tariffs based on cost recovery do not prevent people from having basic access to water and sanitation.

### **Subsidy mechanisms**

Different mechanisms can be adopted to ensure that water and sanitation are affordable to people living in poverty.

- Income supplements provide direct support to households based on their household income (Chile) or geographic location
- Cross-subsidies can also be targeted on the basis of the type of service delivery, for example, kiosks or yard taps having lower tariffs than household connections (Zambia)
- Free basic water or a lifeline tariff ensures access to a minimum amount of water for personal and domestic uses for free or for a minimal charge (South Africa)
- Increasing block tariffs charge less for limited amounts of water, and progressively more for greater consumption

32. In Colombia, the Drinking Water and Sanitation Regulatory Commission<sup>17</sup> works with the Government to develop tariff structures that are sensitive to the economic means of

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<sup>16</sup> See [www.irc.nl/page/39103](http://www.irc.nl/page/39103).

<sup>17</sup> See [www.cra.gov.co/index.shtml](http://www.cra.gov.co/index.shtml).

various groups. This is coordinated with a subsidy system that supports those least able to afford drinking water and sanitation services.

33. In the Walloon region of Belgium, a social water fund has been introduced with the aim of preventing disconnections from the water supply and consequently violations of the right to water. The fund is financed through an obligatory charge added to every bill and is used to assist poor households to pay their water bills. Beneficiaries are identified through the Belgium social services, or through the water company referring defaulters to the social services for verification. Similar legislation was recently passed in France.<sup>18</sup>

### **C. Construction and connection costs**

34. In addition to regular user charges, many utilities charge for connecting new users to offset the costs of extending the network. It is essential that these costs do not restrict the ability of households to have access to water and sanitation. As in the case of Portugal, flexible payment mechanisms can be adopted to ensure that this high one-off cost does not present a barrier to access.

35. Another approach is to involve users in the construction of infrastructure. In poor urban areas of Buenos Aires, the utility Aguas y Saneamientos Argentinos implements the Plan Agua+Trabajo (Working for water) and Plan Cloaca+Trabajo (Working for toilets). The utility works with local governments and local working cooperatives to construct the extension of the drinking water and sewerage network. The utility is responsible for the expansion projects, consulting with local governments, providing materials and technical support and training for local worker cooperatives. The utility is then responsible for ensuring the provision and maintenance of drinking water and sanitation services once work is complete.

36. In Egypt, three rural Upper Egypt governorates, together with the United Nations Children's Fund (UNICEF) and the water and sanitation authorities, have piloted a loan system (revolving fund) for poor households, specifically for household connections for water, and are exploring options for including sanitation. The fund has made it possible to extend access for households that have otherwise been unable to afford the high household connection costs.

## **IV. Implementation**

37. There are many reasons for lack of access to water and sanitation, including financial, social or technical constraints, discriminatory practices and lack of understanding or neglect of the needs of particular groups or communities. Poverty is defined as much by a lack of political voice as by a lack of money to pay for services. Households and communities living without access to sanitation and water services also tend to suffer from a range of other deprivations, such as lack of education or health care and lost productivity.

### **A. Rural areas**

38. Remote locations and large distances between households have significant implications for extending networked supply or constructing sufficient numbers of wells, as well as for the access of individuals and communities to political processes. People living in

<sup>18</sup> Act No. 2011-156 of 7 February, 2011.

rural areas often have limited incomes and cannot pay for services. Particular attention has to be paid to ensuring sustainability, in terms of financial, management and technical issues, particularly where technical capacity and access to spare parts are limited.

39. For sanitation, households and users are frequently among the greatest contributors of funding, both in the construction of latrines and in their operation and maintenance, and these costs can limit access.

40. In the United Republic of Tanzania, following years of problems with the sustainability of constructed water points, the Government, with the support of the non-governmental organization Ingeniería Sin Fronteras, has created District Water and Sanitation Unit Support, which has the role of assisting community-managed water user groups to be more effective. The support is multisectoral, and includes representatives from the water, finance, health, community development, education and district land departments. As the support team is trained in the rights to water and sanitation, it is able to promote participatory and non-discriminatory practices in water user group activities.

41. Community-led planning and implementation is at the heart of the work of Church World Service Cambodia. Using participatory rural assessments and wealth ranking, households rank themselves according to their ability to pay for construction costs, which then defines what each household pays for the service. This approach guarantees non-discrimination, affordability and a pro-poor orientation, as well as ownership of the decisions made by the community.

42. Rural sanitation is a particular challenge, as the need for safe sanitation often goes unrecognized. One solution is to ensure that households themselves benefit financially from having access to a latrine and the wastes that are stored in them. Sanitation entrepreneurs in Malawi work with local communities to encourage the construction of eco-latrines, so that households may benefit from the additional income of either selling manure or improving their crops using their own manure.

43. Community-led Total Sanitation is an approach pioneered by the non-governmental organization Village Education Resource Centre in rural Bangladesh, which uses a process of educating communities about the consequences of not using safe latrines, and then encouraging them to build or buy their own latrines rather than defecating in the open. This approach relies on communities making decisions about their own sanitation practices and monitoring their own compliance, and aims at making whole villages “open defecation free”, promoting human dignity and improving health. In some areas, there is also a revolving sanitation fund that households can use to pre-finance their sanitation facilities. Beyond access to sanitation, this approach has been noted as being a useful entry point for building the capacity of civil society, leading to other development initiatives. The approach has proven especially effective in rural areas, and has been successfully employed in other countries in Asia and Africa.

## **B. Deprived urban areas**

44. Although people living in urban slums are among the most vulnerable to extreme poverty, research from a wide range of countries has shown that slum-dwellers pay considerably more per litre for water of dubious quality than those living in formal areas, where water quality is monitored. Many settlements are poorly planned, with narrow streets, making the provision of services complex. Often, the lack of secure tenure aggravates these challenges.

45. In Bangladesh, the non-governmental organization Dushtha Shasthya Kendra<sup>19</sup> has been working in Dhaka since the 1980s to facilitate access to water and sanitation services for those living in slums. Local government and service providers were wary of installing services in slums, concerned that this would be taken as a tacit acceptance of the settlements, encouraging further settlements, and that the residents would not pay their bills. The organization successfully worked with the local government and the Dhaka utility to provide those living in informal settlements with legal connections. The success of the programme led to the large-scale Advancing Sustainable Environmental Health<sup>20</sup> programme funded by the Department for International Development (United Kingdom), also implemented in other cities, with this approach becoming part of national policy and legislation.

46. Dushtha Shasthya Kendra has also successfully experimented with new technologies, such as the *Vacutug*, a small hand-drawn exhauster for emptying public and private latrines, small enough to pass through the narrow lanes of the informal settlements.

47. Another organization that works in low-income settlements is The Inpart Waterworks and Development Company, based in Manila. Potential project sites are identified by the monitoring of environmental conditions, thereby identifying where access to water is evidently poor. Local communities are introduced to the options available to them through sensitization programmes. The company has experience in working with different technical options, designing for blocks of flats as well as informal settlements. Households may decide either to have a household connection or to take water from a standpipe, and are involved in project design, construction and management. The person responsible for managing the water supply on a daily basis, as well as the director of the company, is available to receive complaints.

48. In Senegal, Senegalaise des eaux, in Dakar, is responsible for providing all residents of the city with services, regardless of where they live. Before being contracted in 1996, service provision was poor, with poor water quality, unreliable supply and significant numbers of unpaid bills. Users are now reportedly more willing to pay because they receive a safe, reliable service with good-quality water, and the service has been extended to low-income settlements, with social tariffs available. Detailed customer surveys and a complaints system are also in place.

49. Urban sanitation requires carefully designed and considered solutions. In densely populated urban areas, on-site latrines are seldom practical owing to lack of space, but lack of adequate planning also often precludes household-level toilets connected to a sewerage system. The large volume of excreta produced in densely populated urban areas needs to be handled safely to ensure that water resources are not contaminated. Lack of secure tenure reinforces these problems: improvements, such as latrine construction, may not be allowed owing either to regulations or to landowners refusing permission to build; without secure tenure, households are unwilling to invest in sanitation hardware if they are under threat of eviction, and service providers may not be willing to extend services to low-income areas for fear of not being able to recover costs.

50. Innovative solutions are generally not technical in nature, but rather focus on new approaches to management, changes in legislation (see paragraphs 7 to 23 above) and improved planning to include informal settlements in citywide planning.

51. One common solution is the construction of shared or public latrines to accommodate the needs of multiple households, but these have critical management

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<sup>19</sup> See [www.dskbangladesh.org](http://www.dskbangladesh.org).

<sup>20</sup> See [www.wateraid.org](http://www.wateraid.org).

implications. Badly managed sanitation facilities can be expensive, unhygienic and largely inaccessible, a problem particularly for women and children, who need a safe place to use at night. To resolve this, public sanitation blocks must be well managed and open 24 hours a day. The Indian non-governmental organization SPARC, together with the slum women's network, Mahila Milan and the National Slum Dwellers Federation, construct community toilets within slums, where the process of designing and constructing community toilets starts by gathering community interest through community-led mapping. Using this information to collaborate with local government to identify and acquire the necessary land, the women themselves are empowered to build and manage the toilets to their own specifications. The financial model is then pay-per-use, with special provision for those who are too poor to pay and with free access for children.

52. In India, a non-governmental organization focusing on sanitation, Sulabh International, constructs and manages public latrines and also has significant practice in low-cost technologies and latrines that take up a minimal amount of space, thus particularly relevant to the urban slum context. More than 10 million people in India use Sulabh International sanitation facilities daily.

53. Condominial sewerage is an affordable alternative to standard sewers, using small diameter pipes, laid along sidewalks or backyards, at a shallower depth. While the system demands a higher level of household/user involvement to manage waste effectively, it is significantly cheaper than the conventional alternative. This option has been extensively used in many countries of Latin America, but is best known in Brazil, where it also forms part of the national sanitation strategy.<sup>21</sup>

54. In developed countries, there are major challenges with regard to public toilets, and access to sanitation and water for homeless people. A good practice can be found in Paris, where public toilets that were previously pay-for-use are now free of charge.

### **C. Water quality**

55. When people have to rely on unprotected sources of water (such as unprotected wells or rivers), they are often unsafe, frequently as a result of inadequate sanitation and other forms of pollution. Even where people have access to water from safe sources, problems with distribution or delivery systems can contaminate the water before use. Water quality can be a particular problem in urban areas, where lack of adequate sanitation contaminates existing groundwater supplies.

56. An interim measure can be point-of-use water purification, such as boiling or chlorination. However, this can be prohibitively expensive. One cheap alternative is solar disinfection (also known as SODIS), which relies on direct sunlight to disinfect water in plastic bottles. The Water School in Uganda promotes this technology, together with other simple technologies for sanitation and hygiene.

### **D. Hygiene promotion**

57. Good hygiene is an essential aspect of acquiring the full health benefits of access to water and sanitation. Considerations of menstrual hygiene are a relatively recent advance, as development workers and community members have found this a difficult topic to discuss; it is, however, a critical issue for women's health and their enjoyment of many human rights. WaterAid Bangladesh and its partners carried out a baseline study in the

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<sup>21</sup> See [www.source.irc.nl/page/36592](http://www.source.irc.nl/page/36592).

slums of Dhaka early in 2005, to understand the beliefs and practices of menstrual hygiene and management. It found that many unhygienic practices were due to a lack of awareness and unwillingness to talk about menstruation, as well as to a lack of safe water facilities for washing and drying rags. An underlying culture of shame and inadequate attention can lead to serious reproductive and other health problems. As a result, WaterAid piloted the design of different women-friendly toilets and has developed educational and communication materials to raise awareness.

58. In the United Republic of Tanzania, assisting women and girls in managing menstrual hygiene is also an issue addressed by the non-governmental organization Water and Environmental Sanitation in a schools sanitation project. The aim is to contribute to improving the ability of girls reaching puberty to manage menstruation with dignity and confidence and hence remain in school. Teacher sensitization and lesson planning to teach girls menstrual hygiene management is available for use across the entire country.

59. To encourage good hygiene behaviour from a young age, and to make the lesson engaging, The WASH United campaign uses sport to create demand for sanitation and to promote hand-washing. Activities include football-based education in schools and youth football teams, games and poster campaigns. Using football as a door opener, WASH United also engages political decision makers at all levels to promote the recognition and realization of the human right to water and sanitation.

## **E. Non-discrimination**

60. One central aspect of realizing the rights to water and sanitation is addressing discrimination, which requires specific attention to be paid to disadvantaged and marginalized members of society. Regardless of where one lives, one's tribe or any other potential ground for discrimination, everyone has an equal right to have access to sufficient, safe, acceptable and affordable water and sanitation.

61. Discriminatory practices originate not only from the State, but also from deeply ingrained cultural and social practices. In Tamil Nadu, India, the Department for Water Affairs<sup>22</sup> committed itself to addressing discriminatory practices based on caste, using access to water and sanitation as the entry point for discussing discrimination. The programme implementers found that, frequently, it was not just policies and programmes that were perpetuating discriminatory practices, but also that local communities needed awareness training to recognize that their own attitudes were discriminatory.

62. Owing to religious, cultural or social norms, women are often not able to participate fully in decision-making processes, and taboos surrounding latrine use are often stronger for women than for men. In Nepal, the Rural Village Water Resources Management Project promoted the inclusion of women and disadvantaged groups in water and sanitation delivery processes by means of the Gender Equity and Social Inclusion Strategy. The strategy promotes and supports the socio-economic empowerment of women, the poor and socially excluded through capacity-building, equal access to resources, participation in decision-making, promoting income-generation and advocating for social change, particularly in relation to discriminatory practices, such as the isolation of women during menstruation.

63. For the elderly, children, and people with disabilities, particular care has to be taken to ensure that facilities are appropriate and that these groups are involved in decisions regarding the service. In the United Republic of Tanzania, UNICEF, the Comprehensive

<sup>22</sup> See [www.indiasanitationportal.org/category/author/vibhu-nayar](http://www.indiasanitationportal.org/category/author/vibhu-nayar).

Community Based Rehabilitation in Tanzania and the Environmental Engineering Pollution Control Organisation formed a partnership, bringing the disability and water and sanitation sectors to support the Government in mainstreaming considerations relating to disability into national school water and sanitation guidelines. Through better access to water, sanitation and hygiene in schools, the programme seeks to ensure the realization of the right to education for all children. The involvement of disability organizations and persons with disabilities was central to raising awareness about disability among water and sanitation stakeholders. Trials of different simple and low-cost latrines were conducted in 2010, together with the development of school WASH (Water, Sanitation and Hygiene) guidelines and toolkits, for use by both Government and non-State actors.

64. In Malawi, Churches Action in Relief and Development emphasizes the inclusion of marginalized groups. Communities write their own by-laws to ensure access for all, including providing free water to those who cannot afford to pay, and installing taps specifically designed for those with physical disabilities.

## **F. Emergency situations**

65. Emergencies require particular consideration in the realization of the rights to water and sanitation owing to the immediate and generally unexpected nature of the need. Although the need may be initially perceived as short-term, all too often people remain in a precarious situation for many years.

66. Several international organizations have published manuals and guidelines for the provision of water and/or sanitation in emergencies, such as the Water Manual for Refugee Situations published by the Office of the United Nations High Commissioner for Refugees<sup>23</sup> and the Handbook for the Protection of Internally Displaced Persons by the Inter-Agency Standing Committee, containing an action sheet regarding the human rights to water and sanitation.<sup>24</sup>

67. The Sphere project,<sup>25</sup> initiated in 1997 by a group of humanitarian non-governmental organizations and the International Federation of Red Cross and Red Crescent Societies, specifies standards for provision and construction in emergencies. The recently updated Sphere handbook points to the rights to water and sanitation, and demands that the principles of non-discrimination, participation and access to information are upheld.

68. Church World Service Pakistan/Afghanistan uses the Sphere standards in their work to ensure that communities have at least minimum access to safe water and sanitation in the time immediately after a disaster. The initiative always includes hardware (handpumps, latrines), hygiene education (hand-washing, household water treatment) and the provision of hygiene materials, such as soap. While water is initially provided for free in crisis situations, Church World Service works closely with the Government to ensure that they can assume responsibility for services upon project completion, thereby contributing to long-term sustainability and affordability of the water supply. The Tearfund Afghanistan Disaster Management Team integrates advocacy into its emergency work, encouraging communities to understand their role in ensuring sustainability of projects and creating the link of accountability between a Government and its citizens.

69. Action contre la faim and the UNICEF WASH cluster identified a gap in knowledge concerning the relevance of human rights in emergencies, leading to the holding of a series

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<sup>23</sup> Available from [www.unhcr.org/3ae6bd100.html](http://www.unhcr.org/3ae6bd100.html).

<sup>24</sup> Available from [www.unhcr.org/refworld/docid/4790cbc02.html](http://www.unhcr.org/refworld/docid/4790cbc02.html).

<sup>25</sup> See [www.sphereproject.org](http://www.sphereproject.org).



of regional practitioners' workshops, and eventually to the development of a handbook explaining the rights to water and sanitation and clarifying how emergency workers can use this framework to improve access to water and sanitation.

## **G. Schools, institutions and other public buildings and places**

70. Schools and other educational centres, public venues and buildings, including hospitals, prisons and workplaces, require water and sanitation services.

71. By means of the Nepal School Health and Nutrition Water and Sanitation Project in Kailali, a water and sanitation programme has been introduced in 170 primary schools with the aim of encouraging children to attend school, with a special focus on increased access to safe drinking water and sanitation, and behaviour change.

72. Access to safe sanitation facilities can be a particular problem in prisons and detention centres. After visiting Portugal in 2008, the European Committee for the Prevention of Torture found that the practice "of defecating in a bucket in a confined space used as a living area" to be degrading, and recommended immediate measures to put an end to it.<sup>26</sup> In 2011, following up on the 2008 visit, the Committee confirmed that the objective had been reached.<sup>27</sup>

## **H. Advocacy and capacity-building**

73. All stakeholders have the potential to play a role in raising awareness of, and lobbying for, the rights to water and to sanitation. These activities can have a significant impact when articulating community demands and pressuring official responses in relation to inadequate access. The *Advocates Handbook* published by the Freshwater Action Network<sup>28</sup> serves as a guide to adopting a human rights-based approach to advocacy for better water and sanitation service provision and regulation.

74. The Emergency Water and Sanitation-Hygiene (EWASH) Group<sup>29</sup> in the occupied Palestinian territories was founded in 2002 to coordinate the work in the water, sanitation and hygiene sectors, including coordination of emergency interventions, and to ensure a coherent response and advocacy messages on the rights to water and to sanitation.

75. In Egypt, the non-governmental organization New Horizon has been working with people living in informal settlements to assist them in claiming their rights by demonstrating community-based models in which communities receive capacity-building and tools to pursue their objective of having access to water and sanitation services. This includes communities learning how to approach and communicate with authorities. Through this process, New Horizon has a high impact on sustainability levels, as communities are able to organize themselves and advocate for their right to water while mobilizing and supporting other communities to follow their model.

76. Disadvantaged groups often suffer from a lack of voice. Since 2007, the community-based organization Community Development Bethesda in Indonesia has been facilitating the provision of primary health-care services, particularly access to water and sanitation, using a participative rights-based approach that includes mobilizing, advocating and

<sup>26</sup> See [www.cpt.coe.int/documents/prt/2009-13-inf-eng.pdf](http://www.cpt.coe.int/documents/prt/2009-13-inf-eng.pdf), para. 46.

<sup>27</sup> See [www.cpt.coe.int/documents/prt/2011-01-inf-eng.pdf](http://www.cpt.coe.int/documents/prt/2011-01-inf-eng.pdf).

<sup>28</sup> See [www.freshwateraction.net](http://www.freshwateraction.net).

<sup>29</sup> See [www.ewash.org/en/?view=79YOcy0nNs3D76djujAn3TTG](http://www.ewash.org/en/?view=79YOcy0nNs3D76djujAn3TTG).

networking with Government and non-governmental actors. An initial needs assessment raises awareness in the community of the importance of organizing themselves in order to speak with one voice for the rights of all community members.

77. Academic research and training for water and sanitation professionals also play a critical part in informing better policy and programming for universal access to safe and affordable water and sanitation. There are numerous initiatives in this regard, housed in universities, think tanks, non-governmental organizations and other institutions. In particular, the Special Rapporteur notes increased research and training specifically on the rights to water and to sanitation, including research on the impact of recognizing these rights and training on how to translate these rights into reality.

## **I. Third-party responsibilities**

78. While the obligation to realize the rights to water and to sanitation rests with the State, business enterprises also have the responsibility to respect human rights. This includes not preventing others from exercising their rights by, for example, over-extraction of water or limiting access to a source, or contamination of water resources through polluting practices. The CEO Water Mandate is an initiative under the United Nations Global Compact, which has embarked on human rights discussions with companies, encouraging more responsible water use. PepsiCo,<sup>30</sup> a member of the CEO Water Mandate, has adopted guidelines regarding the right to water that considers community requirements both before construction of a new factory and during its life. PepsiCo is also exploring the use of human rights impact assessments in its activities. The asset management company, Northstar,<sup>31</sup> based in the United States of America, selects companies to include in its portfolio on the basis of socially responsible investments and includes respect of the right to water in its considerations. As part of its engagement, Northstar has worked with PepsiCo, Intel and Connecticut Water Services to develop specific policies on the right to water.

## **V. Accountability and monitoring**

79. For the rights to water and to sanitation to be realized, service providers and public officials must be accountable to users. Promoting accountability involves, *inter alia*, developing effective monitoring bodies and processes; devising sound indicators for assessing progress, affordability, and the fair and equitable distribution of water and sanitation resources according to needs; creating reliable, accessible and effective judicial and administrative complaints mechanisms that allow individuals to air and satisfactorily redress their grievances; and promoting good governance.

### **A. Monitoring and indicators**

80. The monitoring of existing and new services in terms of quality, affordability and non-discrimination plays a central role in ensuring accountability, and is carried out by a variety of stakeholders, ranging from Government entities, including regulators (see paragraphs 19 to 23 above) to local civil society organizations. Monitoring is essential for understanding access levels, barriers to access and how to improve service provision.

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<sup>30</sup> See [www.pepsico.com/Purpose/Environmental-Sustainability/Partnerships-and-Community.html](http://www.pepsico.com/Purpose/Environmental-Sustainability/Partnerships-and-Community.html).

<sup>31</sup> See [www.northstarasset.com/services.html](http://www.northstarasset.com/services.html).

81. Monitoring at the global level is reported in the UN-Water Global Annual Assessment of Sanitation and Drinking Water (GLAAS) report, which assesses policies, priorities and financing flows for appropriateness for reaching the Millennium Development Goals on water and sanitation.<sup>32</sup> Recent developments suggest that aspects of the rights to water and sanitation will also be included in the GLAAS report for 2012.

82. At the national level, the African Ministers' Council on Water has commissioned Country Status Overviews,<sup>33</sup> which consider the extent to which countries have the appropriate institutions, policies and budgets to improve and sustain water and sanitation service delivery.

83. In some countries, national human rights institutions play an important role in monitoring access to water and sanitation services. For instance, the national human rights institutions of Colombia, Ecuador and Peru<sup>34</sup> engage in a number of activities, including revising fee structures to ensure affordability, responding to citizen complaints, and initiating investigations for non-compliance with human rights. Frequently, the institutions monitor Government bodies as well as service providers, and work closely with regulatory bodies, making recommendations on how to improve access to and quality of water and sanitation services in a non-discriminatory manner.

84. Civil society organizations are also well placed to assess both State and private compliance with the rights to water and to sanitation. For instance, the Citizen Observatory of Public Services, based in Guayaquil, Ecuador, promotes accountability among private service providers by monitoring whether their practices are in compliance with their contractual obligations and the law. In the event of alleged violations, they file complaints in a variety of forums while simultaneously publicizing them in the local news.

85. Civil society has also been pivotal in developing strategies and methods to improve budget monitoring, which is essential for ensuring that Government funding in support of water and sanitation services is sufficient, spent in the appropriate sectors, and that those funds are effectively targeted. WaterAid Nepal has developed a budget primer for use by civil society organizations to assist communities in understanding and monitoring budgets for water, sanitation and hygiene.<sup>35</sup> Such tools enable civil society to judge whether policies designed to support access to water and sanitation are supported by the necessary budget allocations. Similarly, in the United Republic of Tanzania, Norwegian Church Aid promotes accountable governance of community water services through a public expenditure tracking system, which tracks whether funds allocated for vital public services, including water and sanitation, are spent as planned and on behalf of their intended beneficiaries.

86. From an advocacy standpoint, monitoring is more effective when the information collected is relevant to the needs of the community. All too often, data are collected by the national Government or other agencies to be used for external purposes, and are not actively disseminated among local stakeholders. The relevance of monitoring can also be improved by ensuring that civil society, service providers and public officials have a better understanding of existing water and sanitation resources, as disparities in access become clearer and it is easier to identify and target unserved areas. Slum Dwellers International, a global network of community-based organizations, has developed a flexible, community-

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<sup>32</sup> Namely, to halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation.

<sup>33</sup> See [www.wsp.org](http://www.wsp.org).

<sup>34</sup> See [www.defensoria.org.co/red](http://www.defensoria.org.co/red) (Colombia); [www.dpe.gob.ec/dpe](http://www.dpe.gob.ec/dpe) (Ecuador); and [www.defensoria.gob.pe/index.php](http://www.defensoria.gob.pe/index.php) (Peru).

<sup>35</sup> See [www.wateraid.org/documents/plugin\\_documents/budget\\_primer\\_for\\_cso\\_aug2010\\_1.pdf](http://www.wateraid.org/documents/plugin_documents/budget_primer_for_cso_aug2010_1.pdf).

driven process called enumeration,<sup>36</sup> whereby data collection on access to water and sanitation and other relevant issues is conducted by community members, often in collaboration with local academics or professionals. The process ensures that information accurately reflects the problems faced by those living in slums, and communities can make use of these data when negotiating improved services with local municipalities.

87. Since the advent of GoogleEarth and more accessible Geographic Information System and Global Positioning System mapping systems, a range of approaches to water-point and sanitation mapping<sup>37</sup> has evolved. This type of mapping assists communities and local authorities in determining the existence, functionality, safety and affordability of water points and latrines, and can also be used to lobby Governments for improved access in underserved areas.

88. Water quality monitoring is a specific aspect of screening that often requires additional expertise. In Romania, specific legislation requires the Ministry of Health, in collaboration with local governments and service providers, to monitor water quality and report cases of non-compliance to the relevant authorities and to the public. Romania is moving towards improving water quality monitoring of water sources in rural areas, as these are not yet monitored as closely as those in urban areas.

89. A non-governmental organization, Women in Europe for a Common Future, works with local partners and schools in Armenia, Georgia, the Republic of Moldova and Romania to develop water safety plans. In the context of limited Government action to enact water protection measures, the organization has created an educational package for schools to develop community-based water safety plans for local small-scale water supply systems. A toolkit explains information-gathering approaches for local authorities and informs stakeholders on the properties of drinking water and sources of pollution, and related health risks.

90. Effective monitoring is only possible with sound indicators. Existing indicators on water and sanitation frequently fail to measure aspects that are crucial from a human rights perspective, such as non-discrimination or affordability. Developing indicators that measure human rights principles allows monitoring bodies to consider a broader range of issues. Specific, relevant rights-based indicators are being planned for incorporation into the WHO and UNICEF Joint Monitoring Programme for Water Supply and Sanitation,<sup>38</sup> to provide a better understanding of those who do not have access to water and sanitation, and why.

91. In Nicaragua, national surveys monitoring access to water and sanitation have traditionally focused exclusively on the availability of infrastructure. To increase visibility of human rights aspects, Nicaragua, in collaboration with civil society, incorporated rights-based criteria and indicators into its most recent national survey by investigating factors such as user perception of the availability and adequacy of water and sanitation services and the populations most affected by discrimination.

## **B. Litigation**

92. Litigation can be costly and time-consuming and is thus frequently viewed as a last resort; when Governments continuously refuse to respect human rights, however, it can be an effective way of ensuring that individuals and communities have access to essential

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<sup>36</sup> See [www.sdinet.org/ritual/enumerations](http://www.sdinet.org/ritual/enumerations).

<sup>37</sup> See, for example the H2O Initiative at [www.h2oinitiative.org/article/68003/Water\\_Point\\_Mapping](http://www.h2oinitiative.org/article/68003/Water_Point_Mapping).

<sup>38</sup> See [www.wssinfo.org](http://www.wssinfo.org).

services. The cases below illustrate some ways that litigation has assisted in the realization of the rights to water and to sanitation.

93. In January 2011, two representatives of a group of indigenous people living in a game reserve in Botswana successfully filed a suit under the country's Water Act. The Basarwa had been denied access to a borehole that they had been using for decades as an attempt to force them to move out of the game reserve, where they had been living even before its designation as a reserve. The court referred to the recent General Assembly resolution on the right to water and sanitation, and found that denying the Basarwa permission to use, at their own expense, the borehole located on the land where they resided amounted to degrading treatment, which is prohibited by, inter alia, the Convention against Torture. The judgement specifically cites general comment No. 15 of the Committee on Economic, Social and Cultural Rights as well as General Assembly resolution 64/292, in which the Assembly recognized the right to water and sanitation.<sup>39</sup>

94. In 2004, in a case brought before the Civil and Commercial Court of Cordoba, Argentina, residents of Chacras de la Merced sought remedial action against a municipality that allowed a sewage treatment plant to leak untreated sewerage into the community's drinking water supply. Also referencing general comment No. 15, the Court ordered the municipality to rehabilitate, restore and improve the sewage treatment plant and ordered the provincial government to provide the community with an alternative source of drinking water until the improvements were completed. The provincial government finished work on a new potable water system in 2006.<sup>40</sup>

95. Even though there is less jurisprudence in support of the right to sanitation, the body of case law is slowly growing. As early as 1980, the Supreme Court of India recognized State obligations to provide adequate sanitation facilities, observing that the failure to provide access to sanitation "drives the miserable slumdweller to ease in the streets, on the sly for a time, and openly thereafter, because under Nature's pressure, bashfulness becomes a luxury and dignity a difficult art."<sup>41</sup> Similarly, in 2007, the Constitutional Chamber of Costa Rica held that poorly maintained sewerage systems in Villa Flores, which contributed to the flooding of households with wastewater, violated the constitutional right to health and ordered the municipality and various Government entities to take immediate remedial measures.<sup>42</sup>

96. Even where litigation is not successful, it can have a positive impact when combined with civil society campaigns exerting pressure on policymakers, and can lead to policy change. In *Mazibuko v. City of Johannesburg*, residents of Phiri, Soweto, sued the City of Johannesburg, Johannesburg Water (Pty) Ltd. and the Department of Water Affairs and Forestry, alleging that the free basic water policy did not provide residents with sufficient water and that the installation of prepayment water meters was unlawful. The Constitutional Court ultimately ruled against the plaintiffs, but the municipality changed its policy to provide larger amounts of free water to households registered as indigent.

<sup>39</sup> In the matter between Matsipane Moseithanyane, Gakenyatsiwe Matsipane and the Attorney General (January 2011): see [www.elaw.org/system/files/bs.moseithanyane.jan2011.pdf](http://www.elaw.org/system/files/bs.moseithanyane.jan2011.pdf).

<sup>40</sup> See [www.cedha.org.ar/es/comunicados\\_de\\_prensa/go.php?id=93](http://www.cedha.org.ar/es/comunicados_de_prensa/go.php?id=93).

<sup>41</sup> See *Municipal Council, Ratlam v. Vardhichand et al.*, at [www.judis.nic.in/supremecourt/qrydisp.aspx?filename=4495](http://www.judis.nic.in/supremecourt/qrydisp.aspx?filename=4495).

<sup>42</sup> See decision No. 11796, available from [www.poder-judicial.go.cr/salaconstitucional/votos%20por%20tema.htm](http://www.poder-judicial.go.cr/salaconstitucional/votos%20por%20tema.htm).

### C. Good governance and transparency

97. The practices described above outline specific strategies designed to promote accountability among service providers and relevant public entities. Ultimately, however, the long-term realization of the rights to water and sanitation, as with all human rights, demands a broader culture of accountability, which can only flourish in a climate of good governance, strong democratic institutions and transparency.

98. High levels of corruption are symptomatic of a lack of accountability and can lead to higher cost for water users. For instance, in some countries, households must pay a bribe to have access to water, whether to gain a connection or as part of the regular water bill. Most prefer to pay the bribe rather than challenge it and potentially have no access to services. Similarly, a lack of transparency in the contractual process between Government entities and service providers, or between providers and consumers, can also lead to price increases. By one estimate, corruption could raise the cost of realizing the water and sanitation target of Millennium Development Goals by 2015 by as much \$48 billion.<sup>43</sup>

99. There are several transnational initiatives designed to support good governance and reduce corruption. For instance, the Urban Governance Index, developed by the Global Campaign on Urban Governance, the Global Urban Observatory and the United Nations Human Settlement Programme is a self-assessment tool for local authorities, designed to promote dialogue with a range of governmental and non-governmental stakeholders on development priorities. The Index captures urban decision-making processes as well as mechanisms and institutions through which various stakeholders articulate their interests, exercise their rights, meet their obligations and mediate their differences. The indicators also focus on the quality of relationships between key stakeholders at the local level, and consider factors such as the existence of a pro-poor pricing policy for water. The process of assessment prioritizes participatory data collection to improve accuracy and ensure collective ownership of the results.<sup>44</sup>

100. Good governance and accountability may be supported by encouraging Government and private entities to accept binding legal agreements whereby they commit to avoiding corrupt practices in the procurement of public contracts. In support of these integrity pacts, Transparency International has developed a reference manual in which it describes how to design and implement such agreements and how to ensure compliance.<sup>45</sup> Similarly, the 2009 Uganda baseline water integrity survey, commissioned by Transparency International,<sup>46</sup> identifies corrupt practices and proposes participatory processes to develop strategies to limit opportunities for corruption.

101. The United Nations Development Programme (UNDP) and the Water Integrity Network recently launched a water integrity training manual that specifically references the right to water and sanitation.<sup>47</sup>

102. A more localized approach to supporting good governance and transparency is reflected in the UNDP water sector integrity vulnerability assessment conducted in Tajikistan, which aims to develop a risk mitigation plan for the sector. Experiences from other countries show that these types of assessments can lead to open acknowledgement by

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<sup>43</sup> Global Corruption Report 2008: Corruption in the Water Sector, Transparency International, p. 10. Available from [www.transparency.org/publications/gcr/gcr\\_2008#1](http://www.transparency.org/publications/gcr/gcr_2008#1).

<sup>44</sup> See [www.unhabitat.org/content.asp?typeid=19&catid=25&cid=2167](http://www.unhabitat.org/content.asp?typeid=19&catid=25&cid=2167).

<sup>45</sup> See [www.transparency.org/news\\_room/in\\_focus/2011/integrity\\_pacts\\_reaching\\_out\\_to\\_the\\_water\\_sector](http://www.transparency.org/news_room/in_focus/2011/integrity_pacts_reaching_out_to_the_water_sector).

<sup>46</sup> See [http://gaportal.org/sites/default/files/baseline\\_water\\_integrity\\_survey\\_uganda10.pdf](http://gaportal.org/sites/default/files/baseline_water_integrity_survey_uganda10.pdf).

<sup>47</sup> See [www.cap-net.org/content/new-training-manual-water-integrity](http://www.cap-net.org/content/new-training-manual-water-integrity).

policymakers that corruption is a problem for the water and sanitation sectors. Furthermore, the inclusive and participatory manner in which the assessments are carried out promotes public ownership of the findings.

## VI. Conclusions

103. **The present compilation includes diverse practices concerning different aspects of implementing the human rights to water and to sanitation in different regions of the globe. It demonstrates that human rights allow for different solutions, that there are no one-size-fits-all solutions, but rather many ways to transform these human rights into reality. The compilation also clearly demonstrates that it is possible to implement human rights even in seemingly difficult circumstances, such as in remote areas, slums or in emergency situations. A vision for the sectors, a commitment to ensuring access for all and the political will for implementation, as well as some imagination, contribute to the realization of these rights. Crucially, the compilation also shows that the application of human rights principles and standards defined by the rights to water and to sanitation can lead to greater levels of access to safe, acceptable and affordable water and sanitation in sufficient quantities. There is certainly still more to be achieved and studied, but the number of States and organizations specifically using the rights to water and to sanitation framework to inform their approach to their work has produced a welcome focus on the most neglected, excluded and forgotten persons.**

104. **The Special Rapporteur is convinced that the process itself of preparing the present compendium was a good practice, facilitating exchanges between States and other key stakeholders to explore the detail and complexities of implementing the rights to water and to sanitation. The Special Rapporteur hopes to continue this exchange of ideas and practices. She is convinced that the adoption of resolution 64/292 by the General Assembly in 2010, as well as the examples contained in the present compilation, will lead to more efforts to ensure the enjoyment of the rights to water and to sanitation around the world.**

105. **The Special Rapporteur hopes that the very concrete examples contained in the present compendium demonstrate that the application of human rights standards is not utopian, and that they will inspire further practices to be influenced by the rights to water and to sanitation.**

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